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ENTERED
Office of Proceedings
October 17, 2023
Part of
Public Record

17 October 2023

Hon. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

Re: Snohomish County – Adverse Abandonment –
GNP RLY, Inc., in Snohomish County, WA, AB 1331

E-Filing of Application for Adverse Abandonment

E-filing of “Statement of Willingness” (Trails Use Request)

Fee Waiver Requested – State or Local Government Entity

Dear Ms. Brown:

On behalf of Snohomish County (Applicant for adverse abandonment and Trails Use Applicant), enclosed for e-filing please find (1) an Application for Adverse Abandonment prepared in accordance with 49 C.F.R. Part 1152 and this Board’s May 23, 2023 decision in this docket granting certain waivers and exemptions to Snohomish County from otherwise applicable requirements in connection with abandonment applications, and (2) a “Statement of Willingness” (Trails Use request per 49 C.F.R. 1152.29).

Snohomish County is filing its “Statement of Willingness” (trails use request) coterminous with its Adverse Abandonment Application at this time in order to allay possible concerns on the part of the Board that the relief sought in this

FEE RECEIVED
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proceeding may result in a “severance.”¹ The “Statement of Willingness” is Attachment 11 to the Adverse Application.

As indicated in the Adverse Application and attachments 2 and 12 thereto, GNP RLY, Inc., consents to and supports the relief sought, including issuance of an interim trail use/railbanking order. Indeed, the parties have entered into a settlement agreement/railbanking agreement contingent on this Board’s authorization of abandonment and railbanking. For the reasons set forth in the Application, there will be no severance, and railbanking readily falls within this Board’s precedent as an appropriate outcome in this adverse abandonment proceeding.

Fee Waiver Request

In order to ensure expeditious and timely filing and treatment of this adverse abandonment application, Snohomish County has tendered the \$29,300 fee for applications set forth in the current version of 49 C.F.R. 1002.2(f)(21) as well as the \$350 fee for requesting a trail use condition set forth in the current version of 49 C.F.R. 1002.2(f)(27)(i).

Snohomish County hereby requests waiver of both the \$29,300 fee and the \$350 fee and return of both payments.

49 C.F.R. 1002.2(e)(1) provides generally that “filing fees are waived for an application, petition ... or other document that is filed by ... a state or local government entity.” Snohomish County is a political subdivision of the State of Washington. It is thus a “state or local government entity” and clearly qualifies for the requested exemption.

Moreover, Snohomish County does not fall into any exception from the applicable fee waiver rule: the County is not a quasi-governmental entity or government-subsidized transportation company. It is not “acting in the capacity of

¹ Such concerns on the part of the Board resulted in delays in processing the notice of exemption for abandonment for an adjoining portion of rail line in GNP RLY, Inc. - Abandonment Exemption – in King County, AB 1316X. See, e.g., decision in AB 1316X served April 11, 2022.

a carrier or shipper” and it does not “own or propose to own a carrier and is before the agency in its proprietary role.” Accord, Snohomish County – Pet. Declaratory Order, F.D. 35830, served March 5, 2015 (County not subject to common carrier regulation).

As further support for this waiver request, Snohomish County notes that this Board per Ms. Brown granted Snohomish County’s request for waiver of the fee for filing a petition for waiver in this proceeding on September 7, 2023. See attachment to this letter. That action serves as direct precedent for the additional waivers sought here.

Snohomish County therefore requests waiver of fees for the filing of the enclosed Application and the enclosed “Statement of Willingness” (trails request).

A certificate of service for this Letter, the Application, and the “statement of willingness” is attached, demonstrating inter alia compliance with the service requirements set forth in 49 C.F.R. 1152.24(c).

Thank you for your assistance in this matter.

Respectfully submitted,



Charles H. Montange

c.montange@frontier.com

Counsel for Snohomish County

Att(s): STB notification of waiver of filing fee
Certificate of Service

Encl(s): Adverse Application for Abandonment and Attachments/Exhibits
Statement of Willingness (attachment 11 to Application)

Cc (w/ atts & encls): All parties of record per STB website service list;
All individuals/entities specified in 49 C.F.R. 1152.24(c);
Andrew Marcuse, Esq. (Civ. Div., King County P. Office) at
Andrew.marcuse@kingcounty.gov



Surface Transportation Board
Washington, D.C. 20423-0001

REQUEST FOR WAIVER OR REDUCTION OF FILING FEE

Docket No(s): AB 1331

Docket Title(s): Snohomish County--Adverse Abandonment--GNP RLY, Inc., in Snohomish County,

Applicant(s): Snohomish County (WA)

Address: Charles H. Montange
Law Offices of Charles H. Montange
426 NW 162nd St.
Seattle, WA 98177

Applicant has submitted a request for waiver or reduction of the filing fee in the above noted docket(s). The request is granted as noted below.*

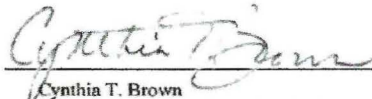
The filing fee is:

☒ Waived ☐ Reduced (explanation below)

- Basis:
- ☒ Applicant is a federal government agency or a state or local government entity under 49 C.F.R. § 1002.2(e)(1). See also Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—Policy Statement, 5 S.T.B. 352, 355 (2000).
 - ☐ Applicant has shown that payment of the fee would impose an undue hardship upon the applicant under 49 C.F.R. § 1002.2(e)(2).
 - ☐ Applicant has shown that waiver or reduction of the fee is in the best interest of the public under 49 C.F.R. § 1002.2(e)(2).
 - ☐ Other (explanation below).

Explanation: The request for a fee waiver for the Petition for Waiver is granted.

Signed:


Cynthia T. Brown

Chief, Section of Administration
Office of Proceedings

Date: Sept. 7, 2023

*The Board will process the refund to the same account by which payment was made. If there is a change in your account information, please contact MILSS at (202) 245-0350 upon receipt of this decision.

Certificate of Service

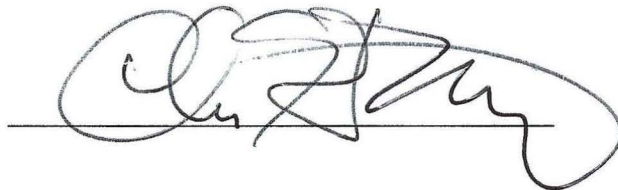
By my signature below, I certify service of the foregoing Letter and enclosed Adverse Application (and "Statement of Willingness), inclusive of all attachments and Exhibits, upon all parties specified in 49 C.F.R. 1152.24(c) and upon all representatives of parties specified in the applicable STB service list for docket AB 1331 by U.S. Mail, postage pre-paid, first class or equivalent , and by email attachment (if specified), by placing same in the U.S. Mail and/or transmitting same by email on October 17, 2023, addressed as follows:

Governor Jay Inslee
Office of the Governor
P.O. Box 40002
Olympia, WA 98504-0002

Washington State Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250
[courtesy copy by email to Cal.stockling@utc.wa.gov]

James H.M. Savage, Esq.
27 Bourne Circle
Hamburg, NJ 07429
[email attachment to jsavagelaw@aim.com]
for GNP RLY, Inc. and related parties

Matthew Cohen, Esq.
600 University Street, Suite 3600
Seattle, WA 98101
[email attachment to matthew.cohen@stoel.com]
for City of Woodinville

A handwritten signature in black ink, appearing to read "Matthew Cohen", is written over a horizontal line.

BEFORE THE SURFACE TRANSPORTATION BOARD
STB DOCKET NO. AB 1331

Snohomish County
-- Adverse Abandonment --
GNP RLY, Inc.,
In Snohomish County, WA

ADVERSE ABANDONMENT APPLICATION
(Verified)

By: 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

For filing: October 17, 2023

Pursuant to 49 C.F.R. part 1152, subpart C, and the waivers and exemptions granted by the Surface Transportation Board (“Board” or “STB”) in Snohomish County – Adverse Abandonment – GNP RLY, INC. in Snohomish County, WA, AB 1331, served May 23, 2023 (hereinafter “May 23 Decision”), Snohomish County (“Applicant” or “SnoCo”), a legal subdivision of the State of Washington, hereby files this “third party” or “adverse” abandonment application in connection with the line of railroad (and more particularly, an exclusive freight rail easement over same) currently licensed to GNP RLY, Inc. The area of the exclusive freight rail easement is further described as Milepost (“MP”) 38.25 at City of Snohomish to MP 26.38 (Snohomish/King County line), a distance of approximately 11.9 miles, in Snohomish County, WA.¹ Hereinafter the exclusive freight rail easement in question will be referred to as the “Line.”

Snohomish County is authorized to state that GNP RLY, Inc. supports and does not oppose this application. See Attachment 2 (Letter from J.H.M. Savage as GNP RLY, Inc.’s counsel, to C. Brown, STB) [*p. 4 of Att(s)*].

Snohomish County hereby confirms its intent to seek the issuance of a Certificate of Interim Trail Use for the Line at the conclusion of this proceeding. See 16 U.S.C. 1247(d); 49 C.F.R. 1152.29 (railbanking/interim

¹ A map showing the line is presented in Attachment 1 [*p. 2 of Att(s)*].

trail use). The County is authorized to state that GNP RLY, Inc., consents to negotiate a railbanking agreement. Accord, Attachment 2 (letter from GNP RLY, Inc.’s counsel) [*p.4 of Att(s)*]. Indeed, the County and GNP RLY, Inc. have entered into a settlement agreement (“Settlement Agreement”) providing “for the line (including freight easement) to be transferred to the County for railbanking (contingent upon this Board’s authorization in this proceeding).” See Attachment 3, Declaration by County Dep. Prosecuting Attorney Sean Reay, at p. 3 [*p.9 of Att(s)*]. See also Attachment 12, Letter, J. H.M. Savage for GNP to C. Brown (STB), dated Sept. 29, 2023 (“railbanking agreement has been reached, subject to this Board’s entry of an order authorizing railbanking”) [*p. 408 of Att(s)*].

I. Preliminary Matters

A. Standing

Any person or entity with “a proper interest in the proceeding” has standing to request the Board to issue an order discontinuing operating rights for a common carrier railroad. E.g., Jacksonville Port Auth. – Adverse Disc. – in Duval County, FL, AB 649, 1996 STB Lexis 200 at *12 (STB served July 17, 1996) (line owner files adverse proceeding). Snohomish County as Applicant clearly has standing to bring this application: SnoCo not only owns underlying

and abutting real estate interests and improvements,² but also is aggrieved by the unsolicited termination of the so-called “O&M” agreement³ by Eastside

² By deed recorded in Snohomish County on Dec. 21, 2009, number AF 200912210438, the Port of Seattle acquired all of BNSF’s interests in the line of railroad (inclusive of track and ties) from MP 38.25 (City of Snohomish) to MP 23.8 (City of Woodinville), except for a reserved freight rail easement. See Attachment 4, Stowe Declaration at Exhibit A (deed) [pp. 49 et seq. of Att(s)]. (The Stowe Declaration at paragraph 9 [p. 44 Att(s)] discusses reserved easement and transfer of same to GNP RLY subject to an Operating and Maintenance Agreement.) Pursuant to the State of Maine line of cases, STB ruled that this transaction did not require Board authorization. Port of Seattle -- Acq. Ex. -- Certain Assets of BNSF, F.D. 35128, served Oct. 27, 2008 (dismissing request for authority on grounds none was needed). By deed recorded in Snohomish County on March 25, 2016, number 201603250418, the Port deeded its interests from MP 38.25 to MP 26.38 (Snohomish/King County line) to Snohomish County. See Attachment 4, Stowe Declaration at Exhibit D [pp. 141-52 Att(s)]. See also bill of sale, Port to Snohomish County, March 24, 2016 (all improvements) in Attachment 4 at Exhibit E [pp. 153-54 Att(s)]. As with the Port, STB determined that Snohomish County did not require Board authorization for this transaction. Snohomish County -- Pet. Dec. Order, F.D. 35830, served March 5, 2015 (applying State of Maine).

³ As part of the transaction creating a reserved freight rail easement, the Port and GNP RLY, Inc. entered into an “Operations and Maintenance” (“O&M”) agreement governing use by GNP of the track improvements which the Port acquired from BNSF. Recorded notice of the O&M and a copy of the O&M are set forth in Attachment 4 (Stowe Dec.), Exhibits B and C respectively [pp. 66-80 & 81-140 Att(s)].

ECR acting through Douglas Engle represented to STB that ECR was acquiring GNP RLY’s assets (inclusive of the freight rail easement) out of bankruptcy and on that basis was authorized to acquire. Compare ECR notice of exemption in Eastside Community Rail – Acq. & Op. Exemption – GNP RLY, Inc., F.D. 35692 at pp. 1, 2 and 4, filed Nov. 7, 2012, and verified by Mr. Engle with Eastside Community Rail – Acq. & Op. Exemption – GNP RLY, Inc., F.D. 35692, served Nov. 23, 2012 (authorizing ECR acquisition on that basis). (STB subsequently revoked ECR’s acquisition license ab initio for misrepresentations, in that Mr. Engle as an officer of GNP RLY had deeded the freight rail easement to his father and wife before GNP RLY entered bankruptcy and he had failed to disclose this to

Community Rail (“ECR”) which had the effect of rendering the holder of the reserved freight rail easement without any state law-based right to use the Applicant’s track and ties.⁴ Moreover, Applicant desires to employ the unused Line (which the County in effect owns but for the raw freight rail easement) for alternative public purposes, including interim trail use and railbanking.⁵

B. No stranded segment

The Line at issue in this proceeding is the entire remainder of GNP’s rail lines. The rail line to the immediate north of this Line was abandoned by BNSF in 2008. See BNSF – Abandonment Exemption – in Snohomish County, AB 6 Sub-no. 422X, notice of consummation filed July 21, 2008 (STB doc. 222997).⁶ The last remaining portion of rail line south of the Line

STB.) During ECR’s tenure as STB licensee, Mr. Engle on behalf of ECR allowed the O&M to terminate, despite objections by the County and demands for an alternative agreement if the O&M were terminated. See Attachment 4, Stowe Declaration at paragraph 11 [*p. 45 Att(s)*].

⁴ See Attachment 4, Stowe Declaration at paragraph 11 [*p. 45 Att(s)*].

⁵ Attachment 5, Declaration by Sharon Swan, Snohomish County Director of Parks, at paragraphs 6, 9-10 [*pp. 184, 185-82 Att(s)*].

⁶ The segment of line for which BNSF consummated abandonment in AB 6 (Sub-no. 422X) was acquired by City of Snohomish (see Attachment 4, Stowe Declaration, paragraph 14 [*p. 46 Att(s)*] and Exhibit F [*pp. 155-172 Att(s)*] thereto) and will hereinafter be referred to as “the City segment.” In response to the Environmental Report/Historic Report (“ER/HR”) circulated on behalf of Snohomish County in this proceeding, City of Snohomish advised Applicant as follows: “Long-term land use plans for the City segment of the original BNSF right-of-way are for a public trail; it serves as the Centennial Trail through

was authorized for abandonment in GNP RLY, Inc. – Abandonment Exemption – in King County, AB 1316X, served April 28, 2023, modified May 23, 2023. The relevant portion of the AB 1316X line (i.e., the entirety of the line except for the “West Spur”) was subsequently railbanked by GNP with City of Woodinville (see GNP RLY, Inc. – Abandonment Exemption – in King County, AB 1316X, notice of interim trail agreement reached), filed June 8, 2023 (STB doc. 306710).⁷

In the course of the AB 1316X abandonment proceeding in Woodinville, the Board expressed concern that Woodinville and GNP RLY, Inc. somehow be constrained actually to railbank the portion of rail line at issue in that case (namely, MP 26.38 to MP 23.8 in Woodinville), apparently because King County and several cities in King County had interconnecting railbanked lines to the south of MP 23.8, and the Board did not wish (or was reluctant) to risk loss of jurisdiction over previously railbanked property south of MP 23.8

Snohomish City limits. Connectivity to the southern portion of the trail is ideal, and therefore the City is interested in supporting any project that would rehabilitate the existing Snohomish River Railroad bridge [at approximately MP 38 to 38.25] for pedestrian access.” Email, B. Eidem (City of Snohomish) to K. Anderson (AECOM), Aug. 18, 2023 (contained in Attachment 7, ER/HR and comments thereto) at *p. 320 Att(s)*.

⁷ The deed conveying the line relevant for railbanking to Woodinville is found in Attachment 4 (Stowe Declaration) at Exhibit G [*pp. 173-180 Att(s)*]. GNP RLY, Inc. consummated abandonment authorization on the “West Spur” at about the same time. See Letter filed in AB 1316X filed June 14, 2023 (STB doc. 306732).

pursuant to its “stranded segment” doctrine. The Board resolved these concerns in its decision in GNP RLY, Inc., supra, AB 1316X and related cases, served April 24, 2023, at p. 8. There, the Board explained that GNP’s proposed abandonment/railbanking in AB 1316X would not result in a severance because:

the potentially stranded segment south of milepost 23.8 is already railbanked, meaning that railbanking the Woodinville Segment would add to an existing trail. In addition, although Elk River [Railroad—Abandonment Exemption—in Kanawha & Clay Counties, W. Va., AB 1314X (STB served Mar. 25, 2022)] correctly notes that a stated intention to railbank a line does not necessarily ensure that an adjoining segment will not be isolated (because either party can terminate negotiations), see Elk River, slip op. at 3, here the Board is satisfied that the covenant in the December 18, 2009, deed—which requires the Easement holder to consent to interim trail use/railbanking if the Easement is authorized for abandonment—and the 2021 Settlement Agreement—which commits GNP and Woodinville to undertake joint efforts to railbank the Woodinville Segment—sufficiently constrain GNP’s ability to terminate Trails Act negotiations and consummate the abandonment.

As in the Woodinville case (AB 1316X), the proposed railbanking of the Line here will simply add to an existing trail (including both the Centennial Trail and the system in Woodinville/King County presumably of concern in AB 1316X).⁸

Moreover, the Applicant and GNP RLY, Inc., have entered into a Settlement Agreement that commits them to joint efforts to railbank the Line at issue here.⁹ In

⁸ Accord, Swan Declaration, Attachment 5 at paras 9-10 [*pp. 185-86 Att(s)*].

⁹ Attachment 3, Reay Declaration at para. 7 [*p. 9 Att(s)*] and Exhibit B [*pp. 17-25 Att(s)*]; Attachment 12 (Letter, Mr. Savage (GNP) to Ms. Brown (STB) [*p. 407 Att(s)*]. See also Swan Declaration, Attachment 5, at para 10 [*pp. 185-86 Att(s)*].

addition, the Line at issue here is subject to the same “covenant that runs with the land”¹⁰ which the Board found relevant in AB 1316X. That covenant provides that upon cessation of rail use, the railroad on application of (inter alia) the Port of Seattle or its successors (here, the Applicant is the Port’s successor), must agree to railbanking in any pertinent rail abandonment (including an adverse abandonment) proceeding.¹¹ Indeed, the Snohomish County Superior Court has entered an Order providing that the covenant applies and under it, GNP RLY, Inc., is obligated upon cessation of rail use to cooperate in railbanking in any abandonment proceeding.¹² The Order provides, inter alia,

“5. The Railbanking Covenants apply to the Exclusive Freight Rail Easement and Rail Line and are binding upon GNP and the County as successors to BNSF and the Port, respectively. The County has the right to enforce, and GNP the obligation to comply with, the terms of the Railbanking Covenants.

“6. The Railbanking Covenants now require that GNP: 1) seek abandonment authority or support a County application for third-party

¹⁰ In real property, a covenant is a binding promise relating to real property created in a conveyance or other instrument providing that something is done, will be done, or will not be done. A covenant binding on successors is said to “run with the land.” See, e.g., Hollis v. Garwall, Inc., 137 Wn2d 683, 690, 974 P.3d 836, 841 (1999).

¹¹ The actual covenant is found in Attachment 4, Stowe Dec., Exhibit A (BNSF to Port deed) on the first substantive page [*p. 51 Att(s)*] and final two unnumbered pages of the deed [*pp. 64-65 Att(s)*]. “GNP concurs that the relevant underlying deeds require implementation of railbanking and interim trail use for this line should the Board authorize abandonment....” Attachment 12 (Letter, Mr. Savage to Ms. Brown) [*p. 408 Att(s)*].

¹² Attachment 3, Reay Dec., Exhibit C (Stipulation and Order) [*pp.26-38 Att(s)*].

abandonment authority of the Rail Line from the ... STB...; and 2) agree to railbank the Rail Line for interim trail use at the County's request; and 3) otherwise cooperate in transferring the Exclusive Freight Rail Easement to the County for interim trail use and railbanking upon authorization from STB."

Attachment 3, Exhibit C, unnumbered pp. 11-12 [*pp. 37-38 Att(s)*].

Accordingly, as this Board found in GNP RLY, Inc., supra, AB 1316X, served April 24, 2023, slip at 8, "GNP's ability to terminate Trails Act negotiations" or the ability of any relevant party to "consummate the abandonment" is "sufficiently constrain[ed]" to eliminate stranded segment concerns.

In the larger context, the Line at issue in this proceeding has now fallen into non-use, like BNSF's rail line south of Woodinville fell into non-use after Boeing's rail shipments of aircraft fuselages were rerouted. The rail lines south of Woodinville are now railbanked (except for a short segment at Wilburton) and are being developed as "Eastrail."¹³ Snohomish County already administers a roughly 30 mile long trail (the Centennial Trail) on the former rail line from City of Snohomish north to the Skagit/Snohomish County line.¹⁴ City of Snohomish is developing an approximately 0.75-mile connector to reach the Snohomish River rail bridge (which is basically the northern endpoint of the Line in this

¹³ Attachment 5, Swan Dec. at para 10 [*p. 185 Att(s)*]. See also Attachment 4, Stowe Dec. at para 8 [*p. 44 Att(s)*].

¹⁴ Attachment 5 at para 10 [*p. 185 Att(s)*]; Attachment 4 at para 14 [*p. 46 Att(s)*]. See also [Parks and Facilities • Snohomish County, WA • CivicEngage \(snohomishcountywa.gov\)](#)

proceeding).¹⁵

The Line at issue in this proceeding, if developed for interim trail use and railbanking purposes, not only will link Snohomish County's existing Centennial Trail with King County's nascent Eastrail, but also will preserve an otherwise hard-to-re-assemble historic transportation corridor for possible future rail reactivation and rail transit uses.¹⁶ This is consistent not only with the purposes of 16 U.S.C. 1247(d), but also with (a) the Puget Sound Regional Council's 2007 Final Report recommending preservation (via railbanking) for the entire 42 miles of line from City of Snohomish to Renton,¹⁷ (b) all the germane regulatory actions and legitimate state law property transfers to date,¹⁸ (c) the railbanking

¹⁵ See note 6, *supra* (City of Snohomish ER/HR comments).

¹⁶ Accord, Attachment 5, Swan Dec. at para. 10 [*pp.* 185-86 *Att(s)*] . See also [Centennial Trail South | Snohomish County, WA - Official Website \(snohomishcountywa.gov\)](http://www.snohomishcountywa.gov)

¹⁷ As the County pointed out in its Petition for Waiver in this proceeding, in the early 2000's, certain bridge work was completed so as to allow BNSF Railway ("BNSF") to divert overhead traffic from Boeing (namely, airplane fuselages) headed for Renton off the "Woodinville Subdivision" in favor of use of BNSF's mainline. This rendered the approximately 42 mile-long (counting the Redmond Spur) Woodinville Subdivision (also collectively called the "Eastside Corridor") uneconomic due to lack of local traffic. As a result, BNSF indicated that it intended to abandon the Eastside Corridor line, and consulted the local governments about interest in acquiring it. The Puget Sound Regional Council issued a study in May 2007 recommending acquisition of the entire Eastside Corridor for public uses, including trail use and "railbanking." See PSRC, BNSF Corridor Preservation Study: Final Report, May 2007 [[BNSF Corridor Preservation Study - without appendices \(railstotrails.org\)](http://www.railstotrails.org)].

¹⁸ In or about 2008, BNSF, the Port of Seattle and King County entered into a

covenant in the underlying BNSF to Port deed recorded in Snohomish County on December 21, 2009,¹⁹ and (d) the state court order determining that the covenant is applicable and binding.²⁰

C. Railbanking in the Context of Adverse Abandonment

In Snohomish County, supra, AB 1331, served May 23, 2023, slip at 8, this Board observed that

“the issue of whether interim trail use/railbanking pursuant to the Trails Act can and should apply in cases where adverse abandonment authority has been granted appears to have not been completely resolved [authorities omitted], but the Board has on occasion allowed a rail line to be railbanked pursuant to the Trails Act in an adverse abandonment proceeding, see, e.g., Stewartstown R.R. – Adverse Aban. – in York Cnty, Pa., AB 1071, slip op

complex set of transactions that, subject to various STB authorizations, resulted in preservation through public acquisition of the 7.30-mile-long Redmond Spur and the 33.25-mile-long Woodinville Subdivision from MP 38.25 near City of Snohomish to MP 5.00 in Kenndale (near Renton). See “Response of BNSF Railway Company, Port of Seattle and King County, WA, to request for Information” in Docket No. AB 6 (Sub-no. 465X), filed Sept. 18, 2008 (STB doc. 223641), at p.6 (summary of transactions, divided into “Railbanking Segments, Wilburton Segment and Freight Portion”) . This joint pleading was also filed in F.D. 35128, AB 6 (Sub-no. 463X) and AB 6 (Sub-no. 464X). The discussion of the “Freight Portion” of the overall transaction set forth in the referenced “Response” relates to how the parties set up the transaction as to the portion of the Woodinville Subdivision at issue in this proceeding.

¹⁹ Attachment 4 (Stowe Dec.) Exhibit A at *pp. 38-89 Att(s)* sets forth the covenant.

²⁰ See Attachment 3 (Reay Dec.) Exhibit B at *pp. 38-39 Att(s)*.

at 18 (STB served Nov. 16, 2012), vacated, (STB served Nov. 14, 2013);
Chelsea Prop. Owners – Aban. – Portion of the Consol. Rail Corp.’s W. 30th
St. Secondary Track in N.Y.C., N.Y., AB 167 (Sub-no. 1094)A et al., slip op
at 8 (STB served June 13, 2005).”

The Board then requested County to address “why the Line is eligible for interim trail use/railbanking under the Trails Act.”

The Line readily falls within STB case law for eligibility for interim trail use/railbanking. In Stewartstown R.R., supra, AB 1071, slip at 18, the Board noted that its role in the Trails Act is “limited and largely ministerial” and in light of the fact that the party requesting railbanking, the party requesting adverse abandonment, and the railroad were all agreeable to railbanking, “a CITU will be issued.” Similarly, in Chelsea Prop. Owners, AB 167 (Sub-no. 1094)A, supra, slip at 8, the Board noted that when an adverse applicant reaches an agreement for railbanking with the railroad, then “interim trail use ... should be viewed as a voluntary arrangement between the necessary parties (the railroad and the trail user), and issuance of a CITU will simply give effect to their intent.” Here, Snohomish County not only is requesting railbanking, but also, as underlying owner of all the Port of Seattle’s interests (including track and ties) which the Port originally acquired from BNSF, is the Applicant seeking abandonment and consenting to railbanking of its own accord. GNP RLY, Inc. (the railroad) is

agreeable to railbanking. In sum, the Applicant as moving party and property owner, and the railroad, have reached an agreement. This case is thus well within the parameters of situations in which the Board has previously issued CITU's in adverse abandonment proceedings. In short, under Stewartstown, supra, and Chelsea, supra, the Board must issue a CITU.

There are additional factors supporting issuance of a CITU here. In the Woodinville section of the "freight portion" contiguous to the Line at issue here, the Board was apparently concerned about isolating railbanked lines to the south in the event of abandonment. The Board evidently viewed railbanking the Woodinville segment as a solution to maintain railbanking jurisdiction over those lines to the south. Decision in AB 1316X, served April 24, 2023, at 8. For the same reasons, railbanking is manifestly appropriate here as a means to relieve the Line of an active federal common carrier obligation and yet preserve railbanking jurisdiction as to railbanked lines to the south of the Snohomish/King County border. At the same time, the otherwise unused Line, currently burdened by an STB-licensed rail easement, will finally become available for the County (as underlying property owner) to develop for public trail purposes, in accordance with customary reasons that public entities file adverse abandonments. As it happens, the County's desired public purposes (trail and railbanking) are fully consistent with what is required to preserve STB jurisdiction over railbanked properties to the

south. In addition, railbanking is consistent with the underlying deeds (Attachment 4, Stowe Dec Exhibit A, at *pp. 64-65 Att(s)* railbanking covenants) and the pertinent state court order (Attachment 3, Reay Dec. Exhibit C, esp. *pp. 38-39 Att(s)*).

D. Entirety of Line/Labor Protection

In approving the form of “Notice of Intent” to be circulated and published in this proceeding, the Board stated that the Line at issue in this proceeding “does not constitute GNP’s entire system, as GNP also owns the Woodinville Segment of the Easement which, although GNP has been authorized to abandon in Docket No. 1316X, remains part of the interstate rail network ... since abandonment has not been consummated.” May 23 Decision, slip at 5. The Board therefore required Snohomish County’s “Notice of Intent” (49 C.F.R. 1152.21) to include the statement that “[t]he interest of railroad employees, if there are any employees, will be protected by the conditions provided in Oregon Short Line Railroad” Id., AB 1331, at 5.

However, the rail line abandonment in AB 1316X was consummated within a few weeks after the Board’s May 23 decision. See GNP RLY, Inc. – Abandonment Exemption – in King County, AB 1316X, notice of interim trail agreement reached filed June 8, 2023 (STB doc. 306710); id., consummation notice filed June 14, 2023 (STB doc. 306732). Snohomish County has

nonetheless carefully complied with the Board’s ordered form for the applicable “notice of intent.” To expedite this proceeding, Snohomish County will not oppose imposition of Oregon Short Line Railroad conditions in AB 1331, because the County does not perceive them to impose any burden here inasmuch as there are no rail employees.²¹ However, if the issue will not result in a delay in processing this proceeding, the County does note that labor protection is not imposed where, as here, an abandonment proceeding in fact deals with the entirety of a railroad’s (here, GNP RLY’s) remaining rail lines. See, e.g., Cerro Gordo Cty., Iowa, AB 1063, served Mar. 16, 2011, at pp. 4-5 note 9 (citing Northampton & Bath R.R.—Aban. Near Northampton & Bath Junction in Northampton Cty., Pa., 354 I.C.C. 784, 785-86 (1978)); South Dakota – Adverse Discontinuance of Operating Authority – Napa-Platte Reg’l R.R. Auth., AB 1253, served May 31, 2017.

II. Waivers Granted in May 23, 2023 Decision

Before considering the various showings required in an abandonment application proceeding, it is useful to summarize the waivers and exemptions that the Board by its decision served May 23, 2023, has granted

²¹ The line has not been used since embargoed by ECR/BTRC in 2020. Attachment 5, Swan Dec. at para 8 [*pp. 184-85 Att(s)*]. See also Attachment 2 at p. 3 *Att(s)* (Letter from GNP counsel certifies no rail use since “at least March 15, 2020”).

Snohomish County. In its referenced decision, the Board specifically exempted or waived, either in whole or in part, the following Board regulations or statutes for this proceeding:

- System Diagram Map. 49 U.S.C. 10903(c)(2); 49 C.F.R. 1152.20-14 and 1152.22(a)(5);
- Line attributes. 49 C.F.R. 1152.22(b)-(e);
- Service of Notice of intent. 49 C.F.R. 1152.20(a)(1) and 1152.20(a)(2);
- Form of Notice of Intent. 49 C.F.R. 1152.21.
- Posting at agency stations and terminals. 49 U.S.C. 10903(a)(3)(B); 49 C.F.R. 1152.20(a)(3);
- Availability of Application for public inspection. 49 C.F.R. 1152.24(c).
- Newspaper publication. 49 C.F.R. 1152.20(a)(4) and 1152.21;
- Form of Federal Register notice. 49 C.F.R. 1152.22(i);
- Offers of financial assistance. 49 U.S.C. 10904; 49 C.F.R. 1152.27.²²

III. Supporting Information

1. System Diagram Map. The Board has exempted the County's Application from the system diagram requirements set forth at 49 U.S.C. 10903(c)(2) and waived its system diagram map rules set forth at 49 C.F.R. 1152.10-14, 1152.22(a)(5) and 1152.24(e)(1).

²² May 23 Decision, slip op. at 3-8.

2. Service of Notice of Intent. The Board has waived service of the Notice of Intent by certified mail upon itself, and also waived service of the Notice of Intent on (a) Significant Users (there are none), (b) Amtrak (no operations on the Line), and (c) Labor Organizations (no employees). May 23 Decision in AB 1331, slip op. at 4, citing 49 C.F.R. 1152.20(a)(1), (a)(2)(i), (a)(2)(x), and (a)(2)(xii). Applicant has served all remaining entities specified in 49 C.F.R. 1152.20(a) per its certificate of service attached to the Notice of Intent, which was e-filed on September 19, 2023, and appears on the STB website as STB doc. 307160. Per 49 C.F.R. 1152.25(b), an affidavit attesting compliance with the notice requirements of section 1152.20 is included in Attachment 6 [*see pp. 193-96 Att(s)*].

3. Newspaper publication. Applicant has complied with the newspaper publication requirements set forth in 49 C.F.R. 1152.20(a)(4) by publishing the form of Notice of Intent approved by this Board during each of three consecutive weeks in a newspaper of general circulation (Everett Herald) in the only county in which the line is located (Snohomish County). Proof of publication is set forth in Attachment 6 [*pp. 197-99 Att(s)*]. The final line of Attachment 6 indicates the publication dates were September 19, September 26, and October 3, 2023 [*p. 199 Att(s)*].

4. Environmental and Historic Reports, service, and all comments received

to date. In compliance with the advance service deadline (20 days) set forth at 49 C.F.R. 1105.7(b) for environmental reports (“ERs”) and the recommended advance service (60 days) for historic reports (“HRs”) set forth at 49 C.F.R. 1105.8(c), Snohomish County through its consultant AECOM served all entities listed in 49 C.F.R. 1105.7(b) and the State Historic Preservation Office (49 C.F.R. 1105.8(c)) with a copy of the combined ER/HR for this proceeding on August 18, 2023. AECOM’s certification [*pp. 202-04 Att(s)*] per 49 C.F.R. 1105.7(c) is attached to the ER/HR, which is all set forth in Attachment 7 to this Application [*pp. 200-310 Att(s)*].

Applicant also furnished a copy of the ER/HR to the Board’s Office of Environmental Analysis for filing as an environmental comment in AB 1331 on August 18, 2023 (STB OEA doc. EI 33036).

As required by 49 C.F.R. 1105.7(d), all written responses on the ER/HR received to date are attached to the ER/HR found in Attachment 7 [*see pp. 311-32 Att(s)*].

5. 49 C.F.R. 1152.22(a) information.

(1) Exact name of applicant. Snohomish County.

(2) Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105. Applicant is not a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105. Accord, Snohomish County -- Pet. Dec.

Order, F.D. 35830, served March 5, 2015.

(3) Relief sought (abandonment or discontinuance of service). The relief sought in this proceeding is the abandonment of GNP RLY's entire remaining line of railroad, from M.P. 26.38 at the King/Snohomish County line near Woodinville to end of line at M.P. 38.25 in City of Snohomish, approximately 11.9 miles in Snohomish County, WA.

Applicant also seeks issuance of a Certificate of Interim Trail Use ("CITU") pursuant to 16 U.S.C. 1247(d) and 49 C.F.R. 1152.29. Applicant supports this request with a Statement of Willingness to Assume Financial Responsibility executed by County Executive Somers, attachment 11 [*pp. 403-06 Att(s)*]. GNP RLY, Inc. consents to negotiate a railbanking agreement. Attachments 2 and 12 [*pp. 3-5 & 407-08 Att(s)*]. Snohomish County and GNP RLY, Inc. have entered into a railbanking agreement, subject to this Board's authorization for railbanking, encompassing the entire Line in this proceeding. See Attachment 3 (Reay Dec.) at p. 3 [*p. 9 Att(s)*] and Exhibit B [*pp. 17-25 Att(s)*]. See also Attachment 12 (Letter, Mr. Savage for ECR to Ms. Brown for STB) [*pp. 407-08 Att(s)*].²³

²³ Applicant is making the showings required for the issuance of a CITU earlier than required under STB regulations in order to offer further assurance and proof to the agency of a plan and intent to railbank the entire line, thus eliminating concerns over "severance."

(4) Detailed map of the subject line on a sheet not larger than 8 x 10 ½ inches, drawn to scale, and with the scale shown thereon. The map must show, in clear relief, the exact location of the line ... over which service is to be discontinued, and its relation to other rail lines in the area, highways, water routes and population centers. The detailed map is set forth in Attachment 1 [*p. 2 Att(s)*].

(5) System diagram map related information. The Board provided in its May 23 Decision that Applicant did not have to submit any information responsive to this portion of the regulation.

(6) Detailed statement of reasons for filing application. Overview. The Line (easement) is subject to a deed covenant requiring the freight easement holder to seek rail abandonment authority or to cooperate in an adverse abandonment proceeding once rail use ceases. See pp. 7-9 *supra*. Rail use of the Line (easement) ceased more than three years ago²⁴ and the covenant is applicable. See pp. 8-9, *supra* (quoting court order finding covenant applicable). As further shown below, the line is no longer viable for freight rail

²⁴ GNP RLY, Inc. indicates that the line has not been used for rail purposes since at least March 15, 2020. Attachment 2, James H.M. Savage (for GNP RLY) letter [*pp. 3-4 Att(s)*]. The line was embargoed effective August 1, 2020, and BTRC withdrew all rail equipment on or about August 14, 2020. See Motion for Leave to File Notice and Notice of Recent Development (Embargo) in *Eastside Community Rail*, *supra*, F.D. 35692, filed August 17, 2020, by Snohomish County (STB doc. 300990).

use. Moreover, the current license holder's (i.e., GNP RLY's) purported²⁵ predecessor (ECR) allowed the railroad's state law rights to use the County's improvements (rail, track, roadbed, etc.) to expire. Continued non-"use" of the line for non-extant rail purposes burdens the underlying corridor owner (the County) without any offsetting benefit to any party; and the Applicant has a valuable alternative use for the property (railbanking and trail use).

Abandonment and railbanking are consistent with (a) applicable deed covenants running with the land and (b) regional planning. For all these reasons, the "present or future public convenience and necessity" "require or permit abandonment" of the Line in question. 49 U.S.C. 10903(d). Abandonment will have no deleterious impact on rural or community development. For example, City of Snohomish supports a trail connection over the Snohomish River Bridge to the south.²⁶ In all events, railbanking has been sought and agreed to, and will occur if this Board issues a Certificate of Interim Trail Use authorizing it. See Attachment 3: Reay Dec at para. 7 [*p. 9 Att(s)*] and Exhibit B [*pp. 17-25 Att(s)*] thereto; see also Attachment 12 (Letter on behalf of GNP) [*p. 408 Att(s)*].

²⁵ Applicant uses the term "purported" to describe ECR because ECR's license to acquire and to operate was revoked ab initio in Eastside Community Rail – Acq. & Op. Ex. – GNP RLY, Inc., F.D. 35692 and related case, served Dec. 22, 2020, for misrepresentations.

²⁶ See note 6. See also Attachment 5, Swan Dec., para 10-11 (community support for trails) [*pp. 185-86 Att(s)*].

Cessation of rail service over three years ago. Shortly after Applicant acquired the Port's interests in Snohomish County by deed dated March 25, 2016 (see note 2 on p.4, supra), the freight easement holder (then ECR) wrote the County Council indicating a major customer (Spectrum Glass) was leaving the Line and implying that obtaining substitute traffic would require rehabilitation of the line to Class II status. ECR specifically sought a half million dollars in immediate subsidies from the County to apply for rehabilitation grants, indicating that BTRC would otherwise abandon operations on the line and that there was no interest in operating the line unless it were substantially subsidized for rehabilitation.²⁷ In short, the then-easement holder maintained that the Line was non-viable since 2016.

Rail use of this Line ceased entirely for a period in 2019 when a rail bridge was damaged in a traffic accident. Although rail service subsequently resumed for a relatively short time, it ceased completely no later than August 1, 2020,²⁸ when ECR, presumably acting through its lessee, BTRC, embargoed the entirety

²⁷ See Attachment 5 (Swan Declaration) at para 7 [*p. 184 Att(s)*] and Exhibit A (Douglas Engle for Eastside Community Rail to Snohomish County Council, June 6, 2016) [*pp. 188-92 Att(s)*].

²⁸ See note 24 and Swan Dec. at p. 184 Att(s). In addition, the portion of the Line from the point of its elevated crossing of the BNSF main line (approximately MP 38) to MP 38.25 (north of the Snohomish River) has not been used since at least 2002. [BNSF attested to non-use for the two years preceding its two-year out-of-service exemption proceeding docketed as AB 6 (Sub-no. 422X) on June 15, 2004 (STB doc. 211348), for that segment.]

of the line due to “track conditions.”²⁹ Shortly thereafter, BTRC withdrew all its rail equipment. ECR never had rail equipment. In the absence of rail use, Snohomish County Superior Court determined that the covenant in the 2009 BNSF to Port deed requiring the parties to cooperate in seeking abandonment authority (and railbanking) is now applicable. See pp. 8-9, supra (quoting order).³⁰

After cessation of service on this line, STB revoked ab initio (a) ECR’s acquisition and operation license, and (b) BTRC’s lease and operating license due to the material misrepresentations (concerning ownership of the freight rail easement) to STB when ECR and BTRC obtained their respective acquisition and/or operating licenses from the agency.³¹ Authority to operate a railroad

²⁹ See Snohomish County filing referenced in note 24, supra (copy of embargo is part of filing; BTRC/ECR incorrectly denied responsibility for the lack of maintenance which resulted in the troublesome track conditions). Under the O&M (see Attachment 3, Stowe Dec., Exhibit C at p.6 [*p. 87 Att(s)*]), the railroad was responsible for maintenance of the improvements such as track. Attachment 3, Stowe Dec. at para 9 [*p.44 Att(s)*].

³⁰ This Board acknowledged that the deed covenant required GNP RLY, Inc., to cooperate in railbanking in the event of abandonment in this Board’s Decision in GNP RLY, Inc., supra, AB 1316X and related cases, served April 24, 2023, slip op. at p. 8.

³¹ Eastside Community Rail – Acq. & Op. Ex. – GNP RLY, Inc., F.D. 35692 and related case, served Dec. 22, 2020. ECR was subsequently determined to lack any property interest in any portion of the freight easement. See Eastside Community Rail – Acq. and Op. Exemption – GNP RLY, Inc., F.D. 35692 and related cases F.D. 35730 and AB 1316X, served April 24, 2023, slip at 8 (STB acknowledges that Washington state courts have determined that ECR held no interest in either portion of freight segment). The Reay Declaration (attachment 3 at Exhibit A [*pp.*

reverted to GNP RLY, Inc., now under new ownership. GNP RLY, Inc. does not have rail equipment and has not resumed rail service.³² As noted, the railroad easement holder is subject to a covenant requiring cooperation in seeking abandonment and railbanking authority in the event of cessation of service.

GNP RLY, Inc. has consummated abandonment/railbanking authority under this Board's two-year out-of-service notice of exemption regulation (49 C.F.R. 1152.50) for the segment of the freight rail easement in Woodinville (MP 26.38 to MP 23.8) without opposition. GNP RLY, Inc. does not oppose, and indeed supports, this adverse abandonment application relating to the entire remainder of the Line (i.e., freight rail easement). See Attachment 2 (James H.M. Savage letter to STB on behalf of GNP RLY) [*pp. 3-5 Att(s)*].

The Line is not viable. As may be presumed from lack of any rail use on this dead-end branch for over three years, the Line is no longer viable.³³

Applicant has received no indications of shipper interest from any entity on the Line.³⁴ Applicant nonetheless retained RL Banks and Associates ("RLBA", rail

11-16 Att(s)]) provides the judicial determination for Snohomish County.

³² Compare sources in note 24 with Attachment 4 (Stowe) para 11 (no rail service) [*p. 45 Att(s)*] and Attachment 5 (Swan Declaration) at para 8 (no GNP equipment on Line) [*p. 184 Att(s)*].

³³ This sort of presumption is foundational to the Board's two-year out-of-service notice of exemption regulation found at 49 C.F.R. 1152.50.

³⁴ Attachment 5 (Swan Dec) at para 9 [*p. 185 Att(s)*].

consultants) to evaluate the Line's continued freight rail viability. RLBA detected no shipper interest.³⁵ RLBA inspection also found "the condition of the railroad to be substandard, consistent with that of a line experiencing deferred maintenance over some time."³⁶ RLBA determined that the Line would require substantial rehabilitation to be returned to service (and even then would require extensive and expensive program maintenance)³⁷; and determined that even at historic levels of use, the Line was non-viable, even if used for car storage.³⁸ As shown in the RLBA viability report, the Line, which has no customers, obviously would not return sufficient revenue to cover rehabilitation, program maintenance, and normal operating and maintenance costs. Nor would it be viable at historic levels of use. Historical volumes of use are unlikely and purely speculative inasmuch as the Woodinville end of the line has been

³⁵ RLBA, Rail Line Viability Report (August 25, 2023), Attachment 8, at p. 5 [*p. 340 Att(s)*].

³⁶ RLBA, Cost to Cure and On-going Maintenance Cost (August 25, 2023), Attachment 9, at p 3 [*p. 356 Att(s)*].

³⁷ RLBA, Cost to Cure and On-going Maintenance Cost (August 25, 2023), Attachment 9, at p. 2: rehabilitation to Class 1 track status would cost \$2,525,000 and require an expenditure of \$771,000 annually in a combination of routine and program maintenance [*p. 355 Att(s)*]. Conceivably the program maintenance could be reduced if a more expensive rehabilitation program were undertaken but RLBA questioned whether grant programs would fund any such rehabilitation for this line due to the competitive nature of grant programs and the minimal rail service provided by this Line. See RLBA, Rail Line Viability Report, Attachment 8, at pp. 8-9 [*pp. 343-44 Att(s)*].

³⁸ RLBA, Rail Line Viability Report, Attachment 8, at p. 9 (summarizes various scenarios, finding negative cash flow for all) [*p. 344 Att(s)*].

abandoned and railbanked and certain prior customers were located there. Also, since the Woodinville end of the line has been railbanked, additional facilities (e.g., a wye and locomotive storage track) may be necessary in the event of actual use of the Line. RLBA estimated the cost of such facilities at \$460,000 to \$575,000 but did not include this in its analysis because of lack of users.³⁹ Adding these costs would further magnify the Line's non-viability.

In the period 2018-19, the then-current license holder (ECR) refused to renew the original Operating and Maintenance ("O&M") agreement between the Port and GNP RLY, Inc., which governed the easement holder's use of the County's tracks.⁴⁰ Despite Applicant's requests, ECR failed to enter into any substitute agreement.⁴¹ The only agreement subsequently reached with GNP RLY, Inc., is the Settlement Agreement which will resolve all claims between the parties, provided STB authorizes abandonment and railbanking. In the meantime and as a result, Snohomish County is receiving no reimbursement for what amounts to unauthorized use (at state law) of its track, ties, bridges and roadbed. This puts the County in a precarious position (i) of being potentially liable for accidents for a use of its improvements without authority at state law,

³⁹ RLBA, Rail Line Viability Report, Attachment 8, at p. 10 [*p. 345 Att(s)*].

⁴⁰ See Attachment 4 (Stowe) at para 11 [*p. 45 Att(s)*]. The original Operating and Maintenance Agreement was tantamount to a lease by the Port to GNP RLY, Inc. for use of the Port's improvements on the property.

⁴¹ Attachment 4 at para 11 [*p. 45 Att(s)*].

while (ii) at the same time forced (due to the absence of a rail operator) to assume responsibility for vegetation control and culvert clearance on property that is supposedly under the control of an STB-licensed railroad.⁴² What ordinarily happens in such cases, especially when rail use has ceased, is that the owner files an adverse abandonment action, which is what Applicant has done, to be relieved of the burden of the rail easement so it can devote its assets to a more productive use. The burden from an active (not railbanked) rail easement is substantial in this case. See Swan Dec., attachment 5, at para. 9 [*p. 185 Att(s)*].

Applicant has a substantial investment in the property, having spent \$3.5 million to acquire the Port's interests (including track, ties and real estate), with an eye toward trail use especially if rail use ceased.⁴³ Moreover, since the freight rail easement (Line) did not encompass the track and ties and other improvements, and the O&M (which inter alia provided for compensation and liability protection) was allowed to terminate, Applicant is entitled to some form of compensation for use or non-use (holding control over the assets without

⁴² In the absence of a rail operator maintaining the property, the County Parks department has taken on vegetation control, culvert maintenance and crossing issues at an expense in excess of \$25,000 per year since 2020. Swan Dec. Attachment 5, at para 9 [*p. 185 Att(s)*].

⁴³ See Swan Dec, Attachment 5, and esp. para 6 (County paid \$3.5 million) [*p. 183 Att(s)*].

using them) in light of the termination of the O&M Agreement. According to RLBA, the track and ties owned by Applicant have a current net liquidation value (value net of salvage costs) of \$1,747,000.⁴⁴ STB's most recently calculated railroad cost of capital is 10.58%.⁴⁵ Until STB authorizes abandonment/railbanking, Applicant is properly viewed as incurring a burden ("opportunity cost") in an amount no less than 10.58% times \$1,747,000 equals \$184,832.60 per year for the continued encumbrance of its track and ties caused by GNP RLY's unabandoned but unused rail license. In addition, the continued encumbrance of an unused but extant rail easement threatens the Applicant with liability arising from the failure of the easement holder (now GNP RLY, Inc.) to control vegetation or drainage along the rail corridor. Applicant for this and other reasons is incurring costs that legitimately should have been on the rail easement holder pursuant to the O&M Agreement that ECR terminated by non-renewal.

Since there are no shippers, the burdens on the Applicant posed by the

⁴⁴ RLBA, Net Liquidation Valuation (August 25, 2023), Attachment 10, at p. 2 [*p. 381 Att(s)*].

⁴⁵ Railroad Cost of Capital – 2022, EP 558 (Sub-no. 26), served August 3, 2023, at p. 1. RLBA points out that the 10.58% figure arguably should be adjusted higher because the asset in question here is being used by a shortline railroad, and shortlines customarily have higher capital costs. Attachment 8, RLBA, Rail Line Viability Report at p. 10 (RLBA indicates an additional 5% surcharge) [*p. 345 Att(s)*].

continued common carrier obligation over this unused property are not offset by any benefits to any party.

Alternative public needs and uses. So long as the line remains subject to the unused federal common carrier obligation, the County and its taxpayers are effectively deprived of any benefit from their \$3.5 million in investment in the underlying property and are instead incurring expenses (both in the form of maintenance outlays and opportunity costs).

This is particularly troubling because there is an important and long-anticipated use for the Line in Snohomish County in the event of cessation of rail use; namely, use of the Line as a railbanked trail. This use was anticipated since the inception of the freight rail easement at issue: the very deed creating the easement provided that the relevant parties must cooperate in seeking railbanking in any abandonment proceeding (including an adverse abandonment proceeding) in the event of cessation of rail use. The 11.9 miles at issue is a key piece of a developing regional trail corridor and park, all consistent with possible future rail use, including especially transit use. If added to the Centennial Trail, the property subject to the rail easement at issue will span Snohomish County from the Skagit/Snohomish County border all the way to the King/Snohomish County border. There it will interconnect with King County's "Eastrail" project. The combined Centennial and Eastrail route also connects

with other trails and rail trails, including (but not limited to) the Whitehorse Trail from Arlington to Darrington in Snohomish County and the Burke-Gilman Trail and eastward extensions of it in Seattle and adjacent communities in King County. It will form the trunk of a system with many branches.⁴⁶ It will also serve park, wildlife habitat and wildlife migration corridor purposes.

Employing the Line as a public trail will also serve historic preservation goals. Given the assurance provided by the covenant running with the land that is applicable here, abandonment and railbanking will serve to preserve the bulk of the original northern division of the Seattle, Lake Shore and Eastern Railroad (“SLSER”). SLSER was originally conceived in or around 1885 by Judge Thomas Burke and lawyer/entrepreneur Daniel Gilman to secure an intercontinental rail connection for Seattle in light of Northern Pacific’s apparent preference for Tacoma.⁴⁷ Consistent with section 106 of the National Historic Preservation Act, 56 U.S.C. 306108, preservation of the old SLSER corridor at issue here through railbanking ensures a lasting memorial to

⁴⁶ Swan Dec., Attachment 5, at paras 10-11 [*pp. 185-86 Att(s)*].

⁴⁷ Burke and Gilman were ultimately successful in fostering Seattle’s future as a major center for rail and maritime commerce, in that Great Northern (run by the legendary James Hill) in fact made Seattle its hub, even though Northern Pacific initially gained control of SLSER via stock purchases. The rivalry between Northern Pacific and Great Northern (and some other roads) eventually was settled by the creation of Burlington Northern, many bankruptcies, litigations and decades later.

important regional railroad history.

Abandonment/railbanking is in keeping with regional plans and poses no serious or adverse impact on agriculture or community development. When advised by BNSF that the railroad no longer required the Woodinville Subdivision, and wished to know the interest of local governments, the Puget Sound Regional Council (representing the local jurisdictions, including King County and Snohomish County) in essence recommended preservation of the entire 42-mile corridor (inclusive of the Redmond Spur) for future use and also advocated use of the federal railbanking statute to this end. The Port of Seattle and King County took the lead in negotiating a transaction to preserve BNSF's rail line.⁴⁸ The transaction was divided into three segments: the so-called "freight portion" between Woodinville and City of Snohomish (handled via STB docket F.D. 35128 in the case of the Port, and STB docket F.D. 35213 in the case of "third party operator" or "TPO" for the freight segment), certain "railbanking segments" [the "Redmond Spur," handled via STB docket AB 6 (Sub-no. 463X); the "North Railbanking Segment," handled via STB docket AB 6 (Sub-no. 465X); and the South Railbanking Segment, handled via STB docket AB 6 (Sub-no. 464X), and the Wilburton segment, handled in STB docket AB 6

⁴⁸ BNSF, the Port of Seattle, and King County filed a joint Response to an STB request for information in dockets F.D. 35128, and AB 6 (Sub-nos. 463X, 464X, and 465X) on Sept 18, 2008, summarizing the transactions (STB doc. 223641).

(Sub-no. 453)]. The Redmond Spur, and North and South Railbanking Segments were immediately railbanked. The Wilburton segment was abandoned but placed in public ownership.

The freight portion was intended for rail (or rail with trail) use to serve local shippers. However, the traffic was low density, and (as previously discussed) the parties incorporated a covenant running with the land for application of the railbanking statute should rail use cease. Rail use has ceased, and the proceeding at issue here is in keeping with the original regional plan.

For all these reasons, the adverse abandonment application should be granted and a Certificate of Interim Trail Use issued.

(7) Name, title, and address of representative of applicant to whom correspondence should be sent. Name: Charles H. Montange; title: attorney for Snohomish County; address: Law Offices of Charles H. Montange

426 NW 162nd St.

Seattle, WA 98177

Telephone: 206-546-1936; fax: -3739; email: c.montange@frontier.com

(8) List of all United States Postal Zip Codes that the line proposed for discontinuance traverses. The line traverses the following zip codes: 98290, 98296, and 98072.

6. 49 C.F.R. 1152.22(b)-(h) information. In its May 23 waiver/exemption

decision, the Board held that Applicant did not need to provide any information responsive to 49 C.F.R. 1152.22(b) (condition of properties); 49 C.F.R. 1152.22(c) (service provided); 49 C.F.R. 1152.22(d) (revenue and cost data); and 49 C.F.R. 1152.22(e) (rural and community impact).

49 C.F.R. 1152.22(f) (environmental impact) information is set forth in Attachment 7 (combined ER/HR and comments thereon) [*pp. 200-332 Att(s)*].

49 C.F.R. 1152.22(g) provides that “[i]f passenger service is provided on the line, the applicant shall state whether appropriate steps have been taken for discontinuance [of passenger service].” This regulation is not applicable because passenger service is not provided on the line.

49 C.F.R. 1152.22(h) provides that “[t]he applicant shall submit such additional information to support its application as the Board may require.” The Board thus far has not asked Applicant to submit any additional information in support of its Application. Applicant nonetheless includes in Part IV a brief legal argument in support of its Application.

7. 49 C.F.R. 1152.22(i) (draft Federal Register notice). In its May 23 waiver/exemption decision, the Board approved Applicant’s proposed Federal Register form, subject to specific revisions. Applicant appends as Attachment 13 the form of Federal Register notice approved in the May 23 decision [*pp. 409-13 Att(s)*].

8. 49 C.F.R. 1152.22(j) (Verification). This Application is verified by Thomas Teigen, Director of the Snohomish County Department of Conservation and Natural Resources. This verification, presented in Attachment 14 [*pp. 414-15 Att(s)*], is in the format prescribed in section 1152.22(j).

III. Adverse Abandonment Is Required in the Circumstances Here

This Board has statutory authority to issue an order authorizing abandonment of any portion of a rail carrier's lines "if the Board finds that the present or future public convenience and necessity require or permit the abandonment...." 49 U.S.C. 10903(d). "In making this finding, the Board shall consider whether the abandonment ... will have a serious, adverse impact on rural and community development." The Board has stated that "[i]n implementing this statutory standard in an adverse proceeding, we consider the relative burdens that continuation of service on the one hand, and cessation of service on the other hand, would have on the involved carrier, the owner ... of the line, and the public." Boston & Me. Corp. – Adverse Discontinuance – New England S. R.R., AB 32 (Sub-no. 100), served April 30, 2010, slip at 3. See also Waterloo Ry.—Adverse Aban.— Lines of Bangor & Aroostook R.R. in Aroostook Cnty., Me., AB 124 (Sub-No. 2) et al., served May 3, 2004, slip op. at 4; . Great Redwood Trail Agency – Adverse Discontinuance – Northwestern P. Rwy. Co., AB 1313, served Sept. 23, 2022, slip op. at 3.

Under this standard, the Board must grant Applicant's adverse abandonment application.

1. Carrier interests. GNP RLY, Inc. does not oppose abandonment and supports railbanking. Moreover, rail use of the Line ceased more than three years ago, and the carrier acknowledges an obligation pursuant to a deed covenant to cooperate in seeking abandonment (and railbanking) authority.
2. Owner interests. Snohomish County, although not a common carrier, is not only the Applicant but also owns all relevant underlying real estate interests that BNSF deeded the Port, as well as the track and ties. The County seeks the adverse abandonment ruling here not to install some new stadium or county office building breaking up the right of way, but instead to move forward with park and trail uses which have literally been anticipated as the alternative public use for this property (in the event rail use ceased) since the original freight rail easement at issue in this proceeding was created. This Board acknowledged that implementing railbanking and trail use was a legitimate use of an adverse proceeding in Great Redwood Trail Agency – Adverse Discontinuance, *supra*, AB 1313, slip op. at 4.

Moreover, this Board in general has held that the owner of rail

property should not be forced to permit its property to be used by a rail carrier whose lease of the line has expired unless “overriding Federal interest[s]” compel a different result.⁴⁹ GNP RLY’s O&M agreement (a kind of lease) has expired. In addition, the Line has long been without shippers and is totally inactive. There is thus no “overriding Federal interest” in maintaining the status quo. To the contrary, granting abandonment authority would “foster [the Applicant’s] intention ... to preserve the Line, under the Trails Act, for possible reactivation of rail service in the future and for interim use as part of [the Puget Sound Region’s] trail system in the meantime.” See Great Redwood Trail Agency, supra, AB 1313, slip op. at 4.

3. Shipper interests. There are no shippers on the Line. They are therefore not adversely impacted by the proposed adverse abandonment.
4. Community interests. The City of Woodinville has railbanked its portion of the former GNP RLY, Inc. line from the King/Snohomish County border south. Applicant understands that City of Snohomish intends to develop a trail on its property (MP 38.25 to MP 39) as soon as Snohomish County secures railbanking and interim trail use from MP 38.25 (start of

⁴⁹ Tacoma Eastern Railway Co. – Adverse Discontinuance of Operation Application – A Line of the City of Tacoma, AB 548, served Oct. 14, 1998, stay denied, id. Served Nov. 13, 1998, slip at 3.

the Snohomish River Bridge) south to the County line. Railbanking and trail use are consistent with the interests of the affected communities.

Abandonment of the unused rail line will not have any adverse impacts on rural or community development.

Conclusion

For the reasons set forth herein, Applicant requests that the Board grant its Application for Adverse Abandonment and issue an order finding that the present and future public convenience and necessity require abandonment of GNP RLY, Inc.'s exclusive freight rail easement (Line).

Applicant has also herein submitted all the paperwork (and the consent of GNP RLY, Inc.) necessary for the issuance of a Certificate of Interim Trail Use (CITU), and supports immediate issuance of same.

Per 49 C.F.R. 1152.22(j), this Application is verified by an officer of Applicant with knowledge of the facts and matters relied upon. See Attachment 14 [*p. 415 Att(s)*].

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

Attorney for Snohomish County, Applicant

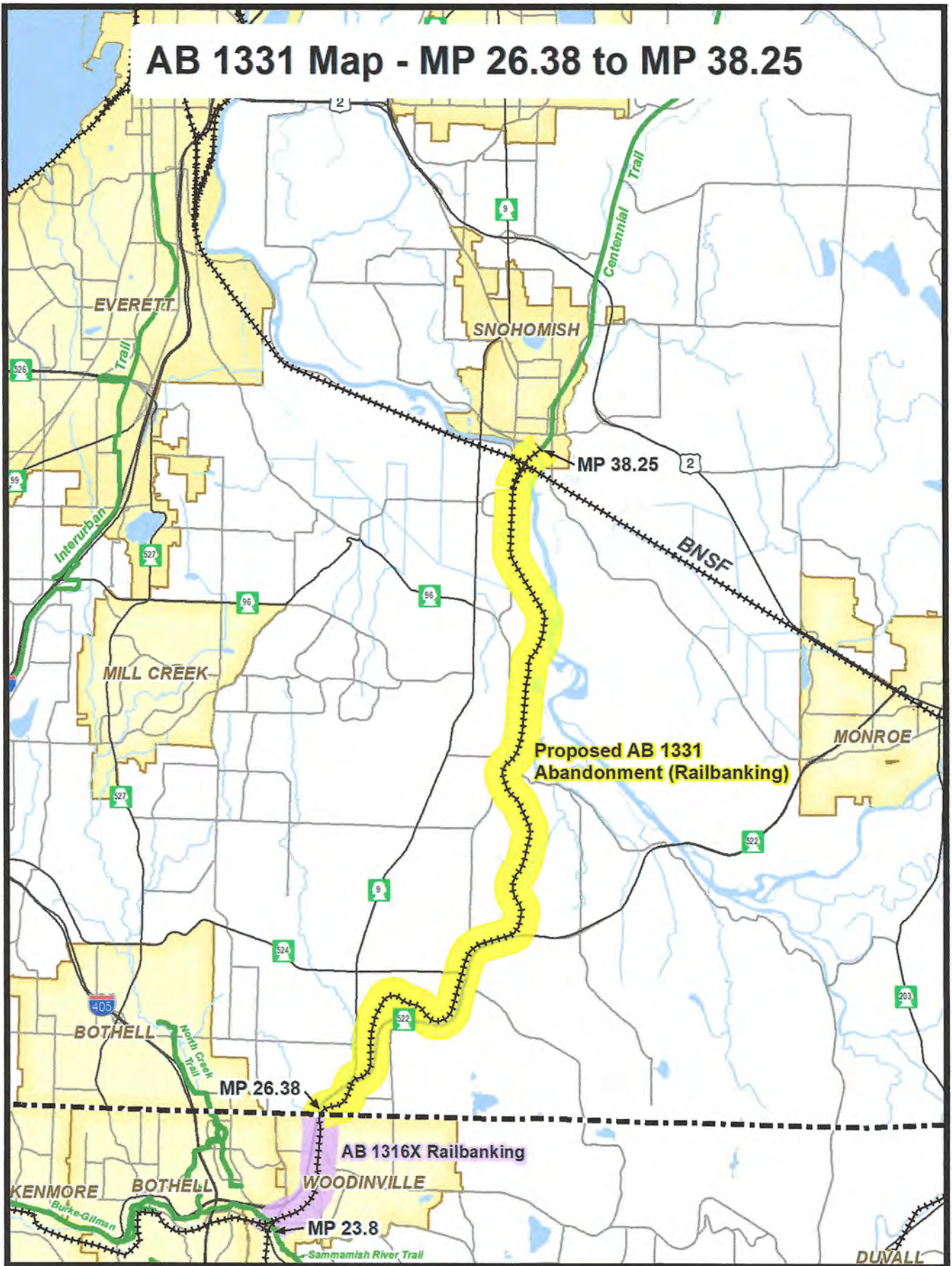
For filing: October 17, 2023

Attachments:	Att(s) p. #
1 -- Map	1
2 -- Letter, James H.M. Savage (for GNP RLY) to C. Brown (for STB) ..	3
3 -- Reay Declaration (state law and related matters)	6
Exhibit A -- Snohomish County court title determination against Eastside Community Rail	11
Exhibit B -- settlement agreement without exhibits	17
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4 -- Stowe Declaration (title, property interest, and related matters)	39
Exhibit A -- 2009 BNSF to Port deed	49
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7 -- ER/HR	200
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8 -- RLBA, Rail Line Viability Report (August 25, 2023)	333
9 -- RLBA, Cost to Cure and On-Going Maintenance Costs (August 25, 2023)	351
10 -- RLBA, Net Liquidation Valuation (August 25, 2023)	377
11 -- Statement of Willingness per 49 C.F.R. 1152.29 (executed by Snohomish County Executive Somers)	403
12 -- James H.M. Savage (for GNP RLY) to C. Brown (for STB) -- consent to negotiate per 49 C.F.R. 1152.29	407
13 -- Form of Federal Register Notice	409
14 -- 49 C.F.R. 1152.22(j) Verification (by Thomas Teigen, Director, Snohomish County Dept. of Conservation and Natural Resources) ...	414

Attachment 1

MAP

AB 1331 Map - MP 26.38 to MP 38.25



Attachment 2

Letter, James H.M. Savage (for GNP RLY, Inc.) to C. Brown (for STB)

JAMES H. M. SAVAGE, ESQ.
27 BOURNE CIRCLE
HAMBURG, NJ 07419
jsavagelaw@aim.com

Admitted New Jersey and DC

Tel: (908) 361-7097

September 29, 2023

Ms. Cynthia T. Brown
Chief Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street S.W., Room 1034
Washington, D.C. 20023

BY ELECTRONIC FILING

Re: Docket No. AB 1331
Snohomish County, WA – Adverse Abandonment – GNP RLY, Inc.

Dear Ms. Brown:

Kindly accept this letter for filing on behalf of GNP RLY, Inc. (hereinafter “GNP”), owner of the freight railroad easement and operating license issued by the Board on February 13, 2009 in FD 35213 for the segment of rail line extending between MP 38.25 in the City of Snohomish and MP 26.38 at the Snohomish County/King County line, all in Snohomish County, WA).

GNP is in receipt of Snohomish County’s Notice of Intent to file an Application for Adverse Abandonment of the within described rail line on or about October 17, 2023.

On behalf of GNP, I certify that consistent with Mr. Kucera’s representation in Exhibit A to GNP’s notice of exemption filed March 18, 2022 in STB Docket No. AB 1316 X (relating to the now-railbanked portion of this line in King County), the line at issue in this proceeding has not been used for any rail purposes since at least March 15, 2020.

GNP has no objection to, and supports, the relief sought by Snohomish County (namely, abandonment of GNP’s entire remaining line, from MP 38.25 in City of Snohomish to MP 26.38 at the County line) in this proceeding. GNP further intends to consent to the application of 16 U.S.C. 1247(d) to the line (i.e., interim trail use and railbanking) should Snohomish County request railbanking, as GNP understands it will.

GNP further represents that it has contracted, subject to appropriate STB authorizations, to transfer its property interests in said line to Snohomish County pursuant to the federal railbanking statute and this Board’s applicable orders. There will thus be no severance of any railbanked lines

to the south of the line at issue in this proceeding should the adverse abandonment and railbanking sought by Snohomish County be granted.

GNP thanks the Board for its kind consideration in this matter.

Respectfully submitted,

James H. M. Savage

/s/ James H. M. Savage

[By electronic signature]

James H. M. Savage, Esq.
Attorney for GNP Rly, Inc.,

Attachment 3

Declaration of Sean Reay
Regarding State Law Matters

Exhibit A – Superior Court Snohomish County
Order Granting Summary Judgment Against ECR

Exhibit B – Settlement Agreement (without exhibits)

Exhibit C – Superior Court Snohomish County
Stipulation and Order on Applicability of Railbanking Covenants

BEFORE THE SURFACE TRANSPORTATION BOARD

SNOHOMISH COUNTY --

ADVERSE ABANDONMENT APPL. --

GNP RLY INC

in SNOHOMISH COUNTY, WA

No. AB 1331

DECLARATION OF SEAN REAY
REGARDING STATE LAW MATTERS

I, SEAN REAY, declare under penalty of perjury that the following is true and correct:

1. I am: over the age of eighteen years; a citizen of the United States; and otherwise competent to testify. This declaration is based upon my personal knowledge, except where otherwise indicated.

2. I am a Deputy Prosecuting Attorney in the Civil Division of the Snohomish County Prosecuting Attorney's Office. I am an attorney of record for Snohomish County (also "County") in the case *GNP RLY, INC., et al. v. Snohomish County, et al.*, Snohomish County Superior Court cause no. 21-2-03931-31, a lawsuit filed by Plaintiffs GNP RLY, INC. ("GNP") and Northwest Signal Maintenance ("Northwest Signal") in Washington State.

1 3. On January 26, 2023, the Snohomish County Superior Court granted GNP's
2 motion for summary judgment against defendants Douglas Engle, Eastside Community Rail,
3 and other associated defendants aligned in interest with Mr. Engle and ECR. The court's
4 granting of the motion ("Superior Court's 1/26/23 Order") determined that Mr. Engle, ECR,
5 and associated defendants had no interest in the freight rail easement at issue in the quiet title
6 suit and, accordingly, dismissed Mr. Engle, ECR, and associated defendants from the suit. A
7 true and correct copy of the Superior Court's 1/26/23 Order granting GNP's motion for
8 summary judgment is attached as **Exhibit A** hereto.
9

10 4. Under Washington State Court Civil Rule 59, Mr. Engle and ECR (and
11 associated defendants) had 10 days within which to seek the reconsideration of the Superior
12 Court's 1/26/23 Order granting summary judgment. I was not served with a motion seeking
13 reconsideration of the order. I also reviewed the superior court docket and determined no
14 such motion was filed. In sum, Mr. Engle and ECR (and associated defendants) did not seek
15 reconsideration of the Superior Court's 1/26/23 Order.
16

17 5. Further, under Washington State Rule of Appellate Procedure 5.2, Mr. Engle
18 and ECR (and associated defendants) had 30 days within which to appeal the Superior
19 Court's 1/26/23 Order granting summary judgment. I was not served with a notice of appeal
20 regarding the order. I also reviewed the superior court docket and determined no such notice
21 of appeal was filed. I have also searched case information available electronically via the
22 Washington State Courts "Washington Acords Appellate Court System" and have not
23 located an appeal. In sum, Mr. Engle and ECR (and associated defendants) did not appeal
24 the Superior Court's 1/26/23 Order.
25
26

1 6. As the period for reconsideration and/or appeal has passed, the Superior
2 Court's 1/26/23 order regarding Mr. Engle, ECR, and associated defendants attached as
3 Exhibit A is final and is not subject to further reconsideration or appeal.

4 7. After the Superior Court issued its 1/26/23 Order, the only remaining parties
5 in the lawsuit were Plaintiffs GNP and Northwest Signal and the County. Although the suit
6 technically remains pending as between the County and Plaintiffs GNP and Northwest Signal
7 (which does not impact the finality of summary judgment and dismissal against Mr. Engle,
8 ECR, and associated defendants), these remaining parties reached an agreement to settle the
9 litigation. The settlement agreement entails, among other things, for the rail line (including
10 freight easement) to be transferred to the County for railbanking (contingent upon this
11 Board's authorization in this proceeding). The settlement agreement also calls for eventual
12 dismissal of the Snohomish County Superior Court lawsuit. A copy of the executed
13 settlement agreement (hereinafter "Settlement of the Parties"), not including its exhibits, is
14 attached as **Exhibit B** hereto.
15

16 8. The Settlement of the Parties required the parties to execute and submit a
17 "Stipulation and Applicability of Railbanking Covenants," resolving various issues in the
18 lawsuit and facilitating abandonment and railbanking of the rail line at issue in the lawsuit
19 and in this proceeding at STB. On August 24, 2023, the Snohomish County Superior Court
20 entered the parties' "Stipulation and Applicability of Railbanking Covenants." A true and
21 correct copy of the "Stipulation and Applicability of Railbanking Covenants" entered by the
22 Snohomish County Superior Court is attached as **Exhibit C** hereto.
23
24
25
26

9. As described above, the “Stipulation and Applicability of Railbanking Covenants,” entered by the Snohomish County Superior Court was part of the Settlement of the Parties. Accordingly, no reconsideration or appeal of the order was pursued, and it is final.

Executed in Everett, WA, this 19th day of September, 2023.

By: Sean Reay
Sean Reay, WSBA #33622

Exhibit A

21-2-03931-31
ORGSJ 81
Order Granting Summary Judgment
13847841



FILED

2023 JAN 26 PM 4:46

HEIDI PERCY
COUNTY CLERK
SNOHOMISH CO. WASH

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR SNOHOMISH COUNTY

GNP RLY, INC., et al,

Plaintiff/Petitioner,

vs.

SNOHOMISH COUNTY, et al.,

Defendant/Respondent.

No. 21-2-03931-31

~~PROPOSED~~ ORDER GRANTING
PLAINTIFF GNP'S MOTION FOR
SUMMARY JUDGMENT RE:
NAMED DEFENDANT'S EXCEPT
SNOHOMISH COUNTY

This matter came before the Court on Plaintiff GNP's Motion for Summary Judgment adjudging that Defendants Douglas Engle, Eastside Community Rail, LLC, Earl Engle, Joanne Skievaski, Telegraph Hill Investments, LLC, and Ballard Terminal Railroad Company, LLC, do not have any legal interest in or title to the exclusive freight rail easement that is subject of this suit.

The Court considered the pleadings filed in this action, including the following:

1. Plaintiff's Motion for Summary Judgment;
2. Declaration of David Rossmiller in Support of Plaintiff's Motion for Summary Judgment (including attached exhibits);
3. Declaration of Joanne Skievaski;
4. Snohomish County's Response to Plaintiff's Motion for Summary Judgment;

5. Declaration of Sean Reay in Support of Snohomish County's Response to Plaintiff's Motion for Summary Judgment (including attached exhibits);

~~6. Response of Douglas Engle, ECR, Earle Engle, Joann Skievaski, Telegraph Hill Investments, or Ballard Terminal Rail Corporation, if any;~~
AND Declaration of Sean Reay to correct errors

6. Reply in support of Plaintiff's Motion for Summary Judgment;

7. Declaration of David Rossmiller in support of Reply

8. Defendant Douglas Engle, ECR, Earle Engle, Joann Skievaski, Telegraph Hill Investments, or Ballard Terminal Rail Corp. Did NOT file any response/ opposition to plaintiff's motion.
Based on the pleadings and the exhibits provided therewith, the oral arguments of Agreement

counsel for Plaintiffs and the County, and the papers on record in this cause, the Court finds:

1. The Court has previously ordered that it is taken as established for purposes of this action that defendants Eastside Community Rail, LLC ("ECR") and Douglas Engle each possesses no legal interest in the exclusive freight rail easement (also "Easement") and are barred from presenting contrary evidence. Orders and rulings of the federal Surface Transportation Board ("STB") have similarly stripped ECR and Douglas Engle of legal authorization to own or operate under the Easement. Each of the above is an independently sufficient basis for summary judgment. There is no genuine issue of material fact as to ECR's and Douglas Engle's lack of legal interest in the Easement.

2. The Court has previously ordered that defendant Earl Engle is in default. The same orders and rulings of the STB stripping ECR and Douglas Engle of legal authorization to own or operate under the Easement apply to Earl Engle. Each of the above is an independently sufficient basis for summary judgment. There is no genuine issue of material fact as to his lack of legal interest in the Easement.

Ⓢ Because of the Plaintiff and County's agreement to enter this order, the Court did not hear oral argument.

Snohomish County's Proposed Order - 2

Snohomish County
Prosecuting Attorney - Civil Division
Robert J. Drewel Bldg., 8th Floor, M/S 504
3000 Rockefeller Ave
Everett, Washington 98201-4060
(425)388-6330 Fax: (425)388-6333

1 3. The Court has previously ordered that Defendant Joanne Skievaski is in
2 default. Further, Joanne Skievaski has executed a declaration disclaiming any interest in
3 the Easement. The same orders and rulings of the STB stripping ECR and Douglas Engle
4 of legal authorization to own or operate under the Easement apply to Joanne Skievaski.
5 Each of the above is an independently sufficient basis for summary judgment. There is no
6 genuine issue of material fact as to her lack of legal interest in the Easement.
7

8 4. The Court has previously ordered that Defendant Telegraph Hill
9 Investments, LLC is in default. The same orders and rulings of the STB stripping ECR and
10 Douglas Engle of legal authorization to own or operate under the Easement apply to
11 Telegraph Hill Investments, LLC. Each of the above is an independently sufficient basis
12 for summary judgment. There is no genuine issue of material fact as to Telegraph Hill
13 Investments, LLC's lack of legal interest in the Easement.
14

15 5. Ballard Terminal Railroad Company, LLC has executed a declaration
16 disclaiming any interest in the Easement. The same orders and rulings of the STB stripping
17 ECR and Douglas Engle of legal authorization to own or operate under the Easement apply
18 to Ballard Terminal Rail Company (as explicitly recognized in a separate ruling of the STB
19 regarding BTRC). Each of the above is an independently sufficient basis for summary
20 judgment. There is no genuine issue of material fact as to their lack of legal interest in the
21 Easement.
22

23 6. That judgment should be entered against ECR and Douglas Engle in favor
24 of GNP in the amount of at least \$86,000.00 reflecting GNP's actual reasonable attorney's
25 fees and costs incurred in relation to its successful motion to compel discovery responses,
26
27

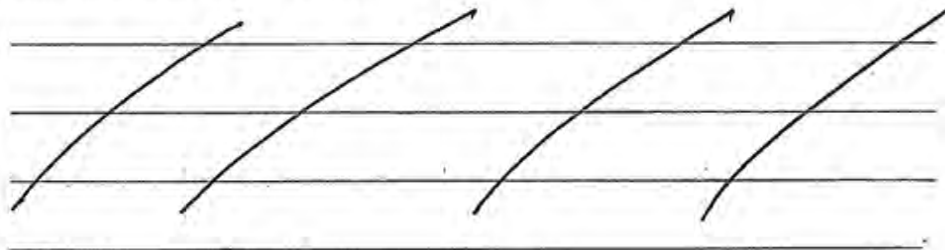
1 and in relation to its successful motion for contempt order and the instant summary
2 judgment motion.

3 7. Plaintiff GNP's Motion seeks no relief as to defendant and counter-claimant
4 plaintiff Snohomish County, and the Court does not make any finding regarding any
5 interest in the exclusive freight rail easement as between the County and Plaintiffs, such
6 claims and interests as between Plaintiffs and the County remaining to be adjudicated;
7

8 Based upon the above findings, IT IS HEREBY ORDERED:

- 9 1. The Court grants summary judgment pursuant to CR 56 that
10 defendants Douglas Engle; Eastside Community Rail, LLC; Telegraph Hill
11 Investments, LLC; Ballard Terminal Railroad Company, LLC; Joanne
12 Skievaski; and Earl Engle do not own or otherwise possess any legal interest in
13 the exclusive freight rail easement that is subject of this suit.
14
15 2. The Court does not make any determination with respect to the rights in the
16 Easement as to and between Plaintiffs and Snohomish County.
17
18 3. Judgment is entered against ECR and Douglas Engle in favor of GNP in the
19 amount of at least \$86,000.00.

20 4.



1 DATED this 26th day of January, 2023.

2
3 
4 THE HON. KAREN D. MOORE

5
6 PRESENTED BY:

7
8 By: _____
9 Sean D. Reay, WSBA #33622
10 Deputy Prosecuting Attorney
11 Attorney for Defendant Snohomish County

12 By: _____
13 Elizabeth Hebel, WSBA #56708
14 Attorney for Plaintiff GNP
15
16
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Exhibit B

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into as of the date last signed below (the "Effective Date") by and between the following parties:

Plaintiffs/Counter-Claim Defendants:

GNP RLY, INC. ("GNP") and NW Signal Maintenance, LLC ("NW Signal") (collectively, "Plaintiffs")

Defendant/Counter-Claim Plaintiff:

Snohomish County, a political subdivision of the State of Washington (the "County").

For purposes of this Agreement, Plaintiff and the County may be referred to collectively as the "Parties."

I. Recitals:

- A. Plaintiffs GNP and NW Signal brought a lawsuit, under Snohomish County Superior Court cause no. 21-2-03931-31 ("State Court Litigation"), to adjudicate rights under state law to an "exclusive freight rail easement" over a rail line in Snohomish County. Plaintiffs named, as defendants, the following: Douglas Engle; Eastside Community Rail, LLC ("ECR"); Telegraph Hill Investments, LLC ("Telegraph Hill"); Ballard Terminal Railroad Company, LLC ("BTRC"); Joanne Skievaski; and Earl Engle (the aforementioned defendants, collectively, "Engle Defendants"); and the County.
- B. The County brought counter-claims against Plaintiffs, including a counter-claim as to certain covenants regarding eventual abandonment and "railbanking" of the rail line under federal law (the "Railbanking Covenants"), which Railbanking Covenants are contained and referred to in deeds executed in previous property transactions concerning the exclusive freight rail easement and the rail line.
- C. Plaintiff GNP subsequently brought a CR 56 motion for summary judgment arguing that the Engle Defendants had no legal interest in the exclusive freight rail easement ("GNP's CR 56 Motion"). GNP's CR 56 Motion did not seek summary judgment as to any claims concerning the County. The County supported GNP's CR 56 Motion against the Engle Defendants. On January 26, 2023, the Court granted GNP's CR 56 Motion by written order ("1/26/23 Order").
- D. The Court's 1/26/23 Order did not enter any relief as to the County. To date, the Court has not ordered any judgment or relief as to claims between Plaintiffs and the County. Accordingly, the Court has not yet made any determination with respect to the rights in the exclusive freight rail easement or rail line as between Plaintiffs and the County (including as to the Railbanking Covenants referenced above). The case remains pending.
- E. Previously, in 2020, the federal Surface Transportation Board (the "STB") revoked defendant ECR's previously granted acquisition and operation authorization from GNP, based on ECR's misrepresentations concerning ownership of the exclusive freight rail

[Handwritten signature]
1/27/23

easement. Subsequently, when ECR (and its principle, defendant Douglas Engle) failed to take action to disclaim their purported property interests to GNP, STB ordered ECR/Douglas Engle to rescind their claims to the exclusive freight rail easement and convey it to GNP. Accordingly, the STB has recognized GNP as sole holder of the exclusive freight rail easement.

- F. On May 25, 2023, the STB granted a petition for certain waivers and exemptions in STB docket AB 1331, in effect allowing Snohomish County to file an adverse abandonment application against GNP for abandonment and railbanking of GNP's exclusive freight rail easement as located in Snohomish County.
- G. The Parties desire to settle and resolve all claims and disputes between them in the State Court Litigation and resolve related matters before the STB, on, concerning, or about the rail line between MP 26.38 (King County/Snohomish County line) north to MP 38.25 (north of the Snohomish River in the City of Snohomish, Snohomish County), totaling approximately 11.9 miles of rail line (hereinafter "Rail Line"). (The Rail Line is further described in Exhibit D (quitclaim deed), described below, and incorporated herein by this reference.) Accordingly, the Parties wish to enter into this settlement agreement ("Agreement") and agree to abide by the terms and conditions set forth below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

II. Terms and Conditions:

1. **Recitals Incorporated.** The foregoing recitals are incorporated into and made a part of this Agreement.
2. **Stipulation and Order in State Court Litigation.** Within seven (7) business days of the Effective Date, the Parties shall submit a fully executed **Exhibit A**, "Stipulation and Order on Applicability of Railbanking Covenants," to the Superior Court of the State of Washington in and for Snohomish County ("Superior Court") and shall diligently cooperate in securing entry by the Superior Court of the Order contained therein. The Parties shall not take a position at any time in any forum contrary to the Stipulation and Order on Applicability of Railbanking Covenants contained in Exhibit A or as to the form of Exhibit A. The County shall submit the Order after receiving a signed copy from Plaintiffs and shall have authority to sign Exhibit A on Plaintiffs' behalf if Plaintiffs do not timely provide signed copy of Exhibit A as provided herein.
3. **Adverse Abandonment.** Snohomish County shall bring, and bear all costs associated with, an adverse abandonment proceeding ("Adverse Abandonment"), currently docketed at the federal Surface Transportation Board ("STB") as STB docket AB 1331.
4. **No opposition to Adverse Abandonment; and Consent to Railbanking.** Plaintiffs, at Plaintiffs' cost, shall undertake the following actions with respect to the Adverse Abandonment: (a) upon request by County and in no case later than three (3) business days following the same, supply to County a signed version of **Exhibit B**: a pleading or other official document suitable for filing at STB and expressing support for, and no opposition to, the granting, by STB, of County's Adverse Abandonment application in AB 1331 (or such other docket as STB may require or authorize) for filing with STB and for service on any and all parties. Exhibit B shall

[Handwritten signature]
7/27/23

indicate and demonstrate Plaintiffs' commitment to apply 16 U.S.C. 1247(d) to the Rail Line property upon County's request, as provided in the Railbanking Covenants set forth in Exhibit A; (b) upon request by County and no later than three (3) business days after entry of an order by STB on the Adverse Abandonment application authorizing abandonment, supply to County a signed version of **Exhibit C**: a pleading or other official document suitable for filing at STB and expressing GNP's consent to railbanking. The County shall have authority to sign Exhibit B and Exhibit C on Plaintiffs' behalf if Plaintiffs do not timely provide signed copies of Exhibit B and Exhibit C as provided herein. Plaintiff GNP warrants that it has provided no rail service on the line at issue in this proceeding since at least March 15, 2020, as stated in Exhibit A of GNP's notice of exemption filed at STB March 18, 2022.

5. Property transfer and deed. Plaintiffs agree to transfer the Rail Line property to County pursuant to 16 U.S.C. 1247(d) and to issuance by STB of an effective Certificate of Interim Trail Use. Plaintiffs shall timely consent to interim trail use and railbanking in the applicable STB proceeding (currently AB 1331. No later than fifteen (15) business days from STB's authorization for railbanking, Plaintiffs shall supply, to an escrow agent chosen by County ("Escrow Agent"), a fully executed quitclaim deed acceptable for recording with the Snohomish County Auditor, in the form set forth in **Exhibit D** ("Quitclaim Deed"). Such Quitclaim Deed shall convey, to County, all interests held by GNP in, on, or over the Railroad Corridor pursuant to 16 U.S.C. 1247(d).

6. Warranties and representations. The Quitclaim Deed from Plaintiffs to County shall convey the Rail Line property to the County in "as is, where is" condition, subject to the following warranties and representations upon which County may rely: (a) Plaintiffs have not placed or suffered to be placed, and will not place or suffer to be placed, toxic materials, trash, or debris on the Rail Line; (b) Plaintiffs have not granted or purported to grant, and will not grant or purport to grant, any licenses or easements in, on, or over the Rail Line; (c) Plaintiffs will take no action to assert any claim or right in the Rail Line for either or both of the Plaintiffs, or any assign, officer, or agent; and (d) Plaintiffs will take no action that interferes with or inhibits such uses (including trail use), as County in its discretion determines to implement subsequent to Closing. All warranties and representations will survive closing, which will take place as further provided herein ("Closing").

7. Settlement Payment. The County agrees to pay to Plaintiffs the sum of Two Hundred and Fifty Thousand and 00/100 Dollars (\$250,000.00) (the "Funds") at Closing. No later than fifteen (15) business days following STB's authorization for railbanking or as soon thereafter as reasonably practicable, County shall supply \$250,000 into an escrow account controlled by Escrow Agent. The payment by the County to Plaintiffs is all-inclusive, including all litigation or other costs or attorney fees claimed, except as specifically and explicitly provided in paragraph 11 herein.

8. User Fee. For purposes of this Agreement only, and for the purpose of settling contested claims in the lawsuit per this Agreement, the County agrees that Plaintiffs are not liable for and do not owe the County rail line user or occupancy fees incurred on or before the date of the Closing as contemplated in this Agreement.

9. Release and Hold Harmless. The Parties shall execute separate releases and agree to hold the other harmless in the forms set forth as **Exhibit E** in the case of Plaintiffs and **Exhibit F** in the case of the County (hereinafter jointly referred to as "Release and Hold Harmless of the Parties"), which executed Release and Hold Harmless of the Parties shall be supplied by Plaintiffs

Handwritten signature and date:
1/27/23

and the County to Escrow Agent separately in advance of Closing and which shall be delivered to the other party by the Escrow Agent at Closing;

10. Dismissal of State Court Litigation. Plaintiffs and County shall sign and provide to Escrow Agent a pleading suitable for filing in Snohomish County Superior Court, consistent with dismissal of the State Court Litigation, as to all claims and all parties, with prejudice, as set forth in **Exhibit G** (also "Dismissal Order"). County shall cause Exhibit G to be filed for entry by the Superior Court within three (3) business days of Closing.

11. Closing. Upon receipt of the Quitclaim Deed, the Funds, signed Release and Hold Harmless of the Parties, and Dismissal Order signed by Plaintiffs, Escrow Agent shall: cause the Quitclaim Deed to be recorded and the Funds to be paid to Plaintiffs as directed by Plaintiffs in writing; provide to the Parties the other party's signed Release and Hold Harmless of the Parties; provide to County the Dismissal Orders signed by the Parties for submittal by the County; and discharge any other responsibilities of the Escrow Agent. County shall bear the costs of the Escrow Agent and recording the Quitclaim Deed. Plaintiffs and the County shall equally split payment of the real estate excise tax associated with the transfer and recording of the deed. The Parties are otherwise responsible for their own costs, including attorney's fees.

12. Timing of Closing. Closing shall occur within twenty (20) days of the effective date of a STB Certificate of Interim Trail Use for the property. Parties will deposit all required funds and executed documents to allow timely closing. Time is of the essence.

13. Filing Notice of Railbanking Agreement. Within three (3) business days of the Closing of the property transaction by Quitclaim Deed and transfer of Funds contemplated in this Agreement, the Parties shall advise STB that a railbanking agreement ("Railbanking Agreement") has been reached by the Parties and the Rail Line railbanked, by filing with STB an executed version of **Exhibit H**. The County shall have authority to sign Exhibit H on Plaintiffs' behalf if Plaintiffs do not timely provide a signed copy of Exhibit H, as provided herein.

14. Railbanking Agreement. This Agreement shall be treated as the interim trail use and Railbanking Agreement between the Parties to the extent required by STB regulations; provided, however, that the Parties acknowledge the County owns the underlying Rail Line and reserves the right to take the position that it can self-railbank the Rail Line pursuant to an STB Certificate of Interim Trail Use. County agrees, effective upon transfer of the exclusive freight rail easement to Snohomish County pursuant to (a) an applicable and effective Certificate of Interim Trail Use from STB, and; (b) delivery of a Quitclaim Deed for said easement in the form provided in this Agreement, to: assume full responsibility for management of, any legal liability arising out of transfer or use of (except to the extent it is immune from liability, in which case it need only indemnify Plaintiffs against potential liability); and to further assume payment of any and all taxes that may be lawfully levied or assessed against the right of way interests in the exclusive freight rail easement owned and operated by Plaintiffs. As part of the consideration exchanged in this Agreement, GNP expressly agrees to disclaim and transfer to County (or to any party designated by County in writing) any and all rights and interests in reactivation of rail service on the Rail Line that it may hold (or be deemed to hold) upon Closing. GNP further authorizes County to file any necessary proceeding with STB to authorize such transfer at County's expense and to represent in such proceeding that GNP concurs in the transfer sought.

15. Frustration of Agreement/Termination. In the event STB fails to authorize or grant Adverse Abandonment or railbanking as anticipated in and contemplated by this Agreement, the Parties shall endeavor to address STB concerns and reapply. If this is impracticable or infeasible, either party may terminate this Agreement (except as to paragraph 2) upon one (1) week's written notice. In the event of lawful termination, all funds and documents in escrow not filed or otherwise distributed shall be returned to the party supplying the same, and all other conditions other than those in paragraph 2 shall be void.

16. Survival of Terms and Conditions and Specific Performance. The terms and conditions set forth in paragraphs 6 and 14 herein shall survive the Closing of the transaction contemplated in this Agreement and shall be subject to the remedy of specific performance, not to the exclusion of other remedies.

17. Cooperation of the Parties. The Parties agree to cooperate in executing such other documents and making such other filings as may be required to accomplish the purpose of this Agreement and the Railbanking Agreement, and to establish a trail within the Rail Line premises.

18. Binding Effect. This Agreement shall bind and inure to the benefit of the Parties and their respective predecessors, successors, affiliated entities, and permitted assigns.

19. Waiver. No waiver of any breach of this Agreement shall be deemed a waiver of any other breach of this Agreement or any of its provisions or affect the enforceability of the remainder of this Agreement, and no waiver shall be valid unless executed in writing by the party providing the waiver. Such waiver shall be valid only with respect to the instance for which it is given and shall not be applicable to any future or other breach of this Agreement.

20. Entire Agreement. This Agreement represents the entire understanding between the Parties and fully supersedes any and all prior agreements and understandings, oral or written, between the Parties pertaining to the subject matter of this Agreement. The Parties intend by this Agreement to fully and finally resolve all outstanding claims and issues as between the Parties in the State Court Litigation and before the STB.

21. Assignment. Neither party may assign its rights under this Agreement without the written consent of the other party.

22. Costs and Expenses. Each Party shall bear its own costs, expenses, and attorneys' fees relating to the preparation of this Agreement; provided, however, that in any action to enforce the terms of, or otherwise arising out of or related to, this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, and expenses.

23. Notices. All notices and other communications regarding this Agreement shall be directed in writing, via email and regular mail, to the following individuals at the following addresses:

For Plaintiffs: Kelsey Terry
Chartwell Law
1050 SW 6th Avenue
Suite 1100
Portland, OR 97204

7/27/23

Direct (503) 886-8177
kterry@chartwelllaw.com

James H.M. Savage
Law Office of James H.M. Savage
27 Bourne Circle
Hamburg, N.J. 07419
Direct (908) 361-7097
jsavagelaw@aim.com
(STB counsel)

For the County: Sean Reay
Deputy Prosecuting Attorney, Civil Division
Snohomish County Prosecuting Attorney's Office
3000 Rockefeller Ave, M/S 504
Everett, WA 98201-4046
Direct (425) 388-7387
sreay@snoco.org

Charles H. Montange
Law Office of Charles H. Montange
426 NW 162nd St.
Seattle, WA 98177
Direct (206) 546-1936
c.montange@frontier.com
(STB counsel)

24. Modifications. Any change, amendment, or alteration to this Agreement must be in writing and signed by the Parties to be effective.

25. Construction. This Agreement is a product of negotiations between the Parties and has been approved by each party. For these reasons, no provision of this Agreement shall be interpreted or construed against a party because such party proffered or drafted the language at issue.

26. Execution of Other Documents. Each party shall cooperate fully in the execution of any and all other documents that may be reasonably necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

27. No Third Parties. This Agreement is not intended for the benefit of any third party and is not enforceable by any third party.

28. Headings. Section headings in this Agreement are included only for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties.

29. Severability. If any provision of this Agreement is deemed unlawful or unenforceable, such provision shall be fully severable, and the remainder of the Agreement shall remain in full force and effect with the automatic addition of a provision as similar in its terms to

[Handwritten signature]
11/28/25

the illegal and/or unenforceable provision as may be possible to make such provision legal and enforceable.

30. Full Understanding; Legal Counsel. Each Party acknowledges, represents, and agrees that it has read this Agreement and that it fully understands and voluntarily accepts this Agreement for final resolution and settlement of the State Court Litigation and STB litigation and the claims addressed therein. Each Party to this Agreement further acknowledges, represents, and agrees that it has had the opportunity to consult with its own legal counsel prior to executing this Agreement.

31. Authority to Sign. Each person executing this Agreement expressly represents and warrants that he or she is fully authorized to enter into this Agreement on behalf of his or her respective Party for the purpose of binding that Party to the terms and conditions of this Agreement. Each Party shall defend, indemnify, and hold the other Parties harmless from any claims, causes of action, or demands that arise out of or relate to the breach of the representations and warranties made herein.

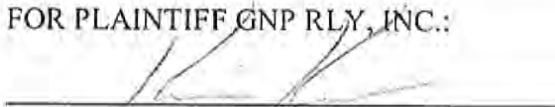
32. Counterparts/Signature. This Agreement may be executed in any number of counterparts and all counterparts shall be deemed to constitute a single agreement. This Agreement shall not be binding until all parties have signed at least one counterpart. Delivery of original signatures by electronic means (e.g., PDF) or execution by electronic signature shall be effective and binding in the same manner as delivery of an original signature (the terms "electronic signature" and "electronic" being defined for purposes of this section by Washington's Uniform Electronic Transactions Act, Chapter 1.80 RCW).

33. Governing Law; Venue. This Agreement shall be construed and interpreted according to the laws of the State of Washington without regard to conflict of laws principles. Venue for any dispute arising out of this Agreement shall be Snohomish County Superior Court.

34. Taxes. Except as where otherwise provided in this Agreement, Plaintiffs understand that Plaintiffs are responsible for all tax obligations they might incur, if any, including all reporting and payment obligations, if any, which may arise as a consequence of this Agreement. Plaintiffs further agree to notify County and hold harmless and indemnify County for any claims relating to or arising from tax obligations on any part of the Agreement amount or any interest or penalties related thereto. Plaintiffs further understand County has made and will make no representations regarding the tax implications, including federal, state, and local tax laws, of this Agreement. County has not and will not provide advice to Plaintiff regarding the tax implications of this Agreement.

DATED this 27 day of July, 2023.

FOR PLAINTIFF GNP RLY, INC.:



KEVIN KUCERA

FOR PLAINTIFF NW Signal Maintenance, LLC:



KEVIN KUCERA

Approved as to form:



KELSEY TERRY, WSBA #
Attorney for Plaintiffs

FOR SNOHOMISH COUNTY:

Ken Klein

Digitally signed by Ken Klein
Date: 2023.08.09 20:21:11
+07'00'

DAVE SOMERS Ken Klein
Executive (or designee) Executive Director

Approved as to form:



SEAN REAY, WSBA #33622
Deputy Prosecuting Attorney
Attorney for County

- Exhibit A: Stipulation and Order on Applicability of Railbanking Covenants (Superior Court)
- Exhibit B: GNP Letter of Support for STB Granting Adverse Abandonment per AB 1331
- Exhibit C: GNP Letter Consenting to Railbanking
- Exhibit D: Quitclaim Deed
- Exhibit E: Release and Hold Harmless of County by Plaintiffs
- Exhibit F: Release and Hold Harmless of Plaintiffs by County
- Exhibit G: Stipulation and Agreed Order of Dismissal (Superior Court Dismissal Order)
- Exhibit H: Notification of Railbanking Agreement

Exhibit C

FILED

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HEIDI PERCY
COUNTY CLERK
SNOHOMISH CO. WASH

21-2-03931-31
AGOR 87
Agreed Order
15116207



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR SNOHOMISH COUNTY

GNP RLY, INC., et al,

Plaintiff/Petitioner,

vs.

SNOHOMISH COUNTY, et al.,

Defendant/Respondent.

No. 21-2-03931-31

STIPULATION AND ORDER ON
APPLICABILITY OF RAILBANKING
COVENANTS

COME NOW, Plaintiffs/Counter-Claim Defendants GNP RLY, INC. ("GNP") and NW Signal Maintenance, LLC ("NW Signal") (also collectively, "Plaintiffs"); and Defendant/Counter-Claim Plaintiff Snohomish County (the "County"); by and through their undersigned counsel of record; and present this Stipulation and Order on Applicability of Railbanking Covenants for entry by the Court, resolving contested issues between Plaintiffs and the County in this lawsuit.

AGREED PROCEDURAL AND FACTUAL HISTORY AND STIPULATION

1. Plaintiffs and the County hereby stipulate to the following facts and legal conclusions with respect to the rights, as between Plaintiffs and the County, in the exclusive freight rail easement and rail line at issue in this suit.

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2. Plaintiffs GNP and NW Signal brought this action in quiet title to adjudicate rights at state law to an "exclusive freight rail easement" over a rail line in Snohomish County.
 3. Plaintiffs named, as defendants, the following: Douglas Engle; Eastside Community Rail, LLC ("ECR"); Telegraph Hill Investments, LLC ("Telegraph Hill"); Ballard Terminal Railroad Company, LLC ("BTRC"); Joanne Skievaski; and Earl Engle (the aforementioned defendants, collectively, "Engle Defendants"); and Snohomish County ("the County").
 4. The County brought counter-claims against Plaintiffs, including a counter-claim as to certain covenants regarding eventual abandonment and "railbanking" of the rail line under federal law (the "Railbanking Covenants"), which Railbanking Covenants (described and discussed in paragraphs 9-15, below) are contained and referred to in deeds executed in previous property transactions concerning the exclusive freight rail easement and the rail line.
 5. Plaintiff GNP subsequently brought a CR 56 motion for summary judgment to the effect that the Engle Defendants have no legal interest in the exclusive freight rail easement ("GNP's CR 56 Motion"). GNP's CR 56 Motion was based on: prior default by some Engle Defendants; the failure by some Engle Defendants to participate in discovery; and prior rulings to similar effect by the federal Surface Transportation Board. GNP's CR 56 Motion did not seek summary judgment as to any claims concerning the County. The County supported GNP's CR 56 Motion against the Engle Defendants.
 6. On January 26, 2023, the Court granted GNP's CR 56 Motion by written order ("1/26/23 Order").

- 1 7. The Court's 1/26/23 Order did not enter any relief as to the County. To date, the Court
2 has not ordered any judgment or relief as to claims between Plaintiffs and the County.
3 Accordingly, the Court has not yet made any determination with respect to the rights in
4 the exclusive freight rail easement or rail line as between Plaintiffs and the County
5 (including as to the Railbanking Covenants referenced above and described and
6 discussed in paragraphs 9-15, below).
- 8 8. As part of a broader transaction involving other rail lines (Washington Branch Line and
9 Redmond Spur Right of Ways), the Burlington Northern Santa Fe Railway ("BNSF")
10 conveyed to the Port of Seattle ("Port") its interest in a rail line from approximately
11 Milepost ("MP") 38.25 near the City of Snohomish in Snohomish County to
12 approximately MP 26.38 at the Snohomish County/King County line and thence to MP
13 23.80 at the City of Woodinville in King County. This conveyance occurred pursuant to:
14 a Purchase and Sale Agreement; and a deed recorded in Snohomish County on December
15 21, 2009, under recording no. 200912210438 ("BNSF to Port Deed").
- 17 9. The BNSF to Port Deed reserved an exclusive freight rail easement to BNSF ("Exclusive
18 Freight Rail Easement"). The Exclusive Freight Rail Easement provides for freight rail
19 operation by BNSF (or its successor in interest) on the rail line from MP 38.25 to MP
20 23.80 described in paragraph 8, above. The Exclusive Freight Rail Easement is subject
21 to the "Railbanking Requirements in the Event of Abandonment" ("Railbanking
22 Covenants") set forth in the BNSF to Port Deed. The Exclusive Freight Rail Easement
23 does not encompass or include any utility rights in, on, or over the rail line; nor does it
24 encompass or include the authority to grant or convey such utility rights.
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26

1 10. In particular, the BNSF to Port Deed at unnumbered page 2 references the Railbanking
2 Covenants as follows:

3 Port and BNSF for themselves and their respective successors and
4 assigns hereby further covenant and agree that the provisions of the
5 Railbanking Requirements in the Event of Abandonment, also
6 required by the Purchase and Sale Agreement and attached hereto as
7 Exhibit B are incorporated herein by reference and shall be
8 covenants running with the land that are enforceable by the parties
9 identified therein, and their respective successors and assigns, and
are for the benefit of the Property and the other portions of the
Washington Branch Line and Redmond Spur Right of Ways being
acquired by Port from BNSF by deeds dated as of the date set forth
herein.

10 11. The Railbanking Covenants are in turn set forth in detail at un-numbered pages 15-16 of
11 the BNSF to Port Deed. The Railbanking Covenants provide as follows:

12
13 If the holder of the reserved freight easement or its successor,
14 assignee or designee or other entity carrying out common
15 carrier freight service on the Property (each an "Abandonment
16 Applicant") elects to seek authority from the Surface
17 Transportation Board or any successor agency to abandon or
18 discontinue its freight common carrier obligation over some
19 or all of the Property, then such Abandonment Applicant shall
20 consent to a request by any or each of County, the Port, the
21 Central Puget Sound Regional Transit Authority or the
22 successor or designee of any of them (each a "Trail Use
23 Applicant") for the implementation of interim trail use in
24 accordance with Section 8(d) of the National Trails System
25 Act, codified at 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29, as
26 such provisions may be amended or interpreted by binding
judicial or administrative authority ("Railbanking Laws"),
provided the Trail Use Applicant meets all requirements of the
Railbanking Laws, including that the Trail Use Applicant agrees
to a trail use agreement as required by the Railbanking Laws. The
Abandonment Applicant shall cooperate with any or each Trail
Use Applicant in any application for authority to implement
interim trail use over all or any portion of the Property on which
the Abandonment Applicant seeks authority to abandon or
discontinue its freight common carrier obligation. If the holder

1 of the reserved freight easement or its successor, assignee or
2 designee or other entity carrying out common carrier freight
3 service on the Property ceases operations but fails within a
4 reasonable period of time to (a) seek abandonment authority, and
5 (b) respond to inquiries from any potential Trail Use Applicant
6 as to the status of its operations, any Trail Use Applicant may
7 elect to seek authority from the Surface Transportation Board or
8 any successor agency for a third- party abandonment and interim
9 trail use over some or all of the Property on which operations
10 have ceased. The holder of the freight easement or its successor,
11 assignee or designee or other entity carrying out common carrier
12 freight service on the Property shall not oppose any such action
13 by a Trail Use Applicant if the holder has ceased operations.

14 12. In sum, the Railbanking Covenants run with the land and compel any owner of the
15 Exclusive Freight Rail Easement (as successor to BNSF), upon cessation of rail use of
16 the rail line, to seek federal rail abandonment authority (and cooperate in interim trail use
17 and railbanking if so requested), or to respond to inquiries from specified entities (such
18 as the County as successor to the Port) concerning the status of its operations. The
19 Railbanking Covenants further provide that the holder of the Exclusive Freight Rail
20 Easement must cooperate in railbanking and not oppose third party abandonment and
21 interim trail use if the holder has ceased rail operations on the rail line.

22 13. Subsequent to the conveyance of the underlying premises from BNSF to the Port (per
23 paragraph 8, above), BNSF conveyed its reserved Exclusive Freight Rail Easement to
24 GNP by another deed, recorded in Snohomish County on December 21, 2009, under
25 recording number 200912210439 ("BNSF to GNP Deed"),

26 14. The County is successor to the Port's interests in the Snohomish County portion of the
27 rail line identified in paragraph 8, above (this Snohomish County portion of the rail line
constitutes the "Rail Line" at issue in this suit). These interests include all utility rights

1 (other than as conveyed by the Port to a third party or retained by BNSF and not conveyed
2 to any third party) pursuant to: a deed conveying the Port's interests in the Rail Line to
3 Snohomish County and recorded in Snohomish County on March 26, 2016, under
4 recording number 201603250418; and a bill of sale encompassing the Port's physical
5 assets (e.g., track and ties) in and on the Rail Line.
6

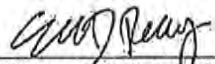
7 15. The Railbanking Covenants apply to the Exclusive Freight Rail Easement and Rail Line
8 and are binding upon GNP and the County as successors to BNSF and the Port,
9 respectively. The County has the right to enforce, and GNP the obligation to comply
10 with, the terms of the Railbanking Covenants.
11

12 16. GNP is the holder of the Exclusive Freight Rail Easement and has ceased rail operations
13 on the Rail Line. No other entity conducts rail operations on the Rail Line. The
14 Railbanking Covenants now require that GNP: 1) seek abandonment authority or support
15 a County application for third-party abandonment authority of the Rail Line from the
16 Surface Transportation Board ("STB") (a federal agency); and 2) agree to railbank the
17 Rail Line for interim trail use at the County's request; and 3) otherwise cooperate in
18 transferring the Exclusive Freight Rail Easement to the County for interim trail use and
19 railbanking upon authorization from STB.
20

21 17. Plaintiff NW Signal does not have any interest in the Exclusive Freight Rail Easement
22 or Rail Line at issue in this case and should be dismissed from this cause.
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1 DATED this 17th day of August, 2023.

2
3 PRESENTED BY:

4
5 By: 
6 Sean Reay, WSBA #33622
7 Deputy Prosecuting Attorney
8 Attorney for Snohomish County

9 By: 
10 Kelsey Terry, WSBA #52417
11 Attorney for Plaintiffs GNP and NW Signal
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ORDER

This matter came before the Court on Plaintiffs/Counter-Claim Defendants GNP RLY, INC. and NW Signal Maintenance, LLC and Defendant/Counter-Claim Plaintiff Snohomish County's Stipulation and Order on Applicability of Railbanking.

FINDINGS OF FACT

Based upon the above parties' Agreed Procedural and Factual History and Stipulation, the Court hereby finds as follows:

1. As part of a broader transaction involving other rail lines (Washington Branch Line and Redmond Spur Right of Ways), the Burlington Northern Santa Fe Railway ("BNSF") conveyed to the Port of Seattle ("Port") its interest in a rail line from approximately Milepost ("MP") 38.25 near the City of Snohomish in Snohomish County to approximately MP 26.38 at the Snohomish County/King County line and thence to MP 23.80 at the City of Woodinville in King County. This conveyance occurred pursuant to: a Purchase and Sale Agreement; and a deed recorded in Snohomish County on December 21, 2009, under recording no. 200912210438 ("BNSF to Port Deed").
2. The BNSF to Port Deed reserved an exclusive freight rail easement to BNSF ("Exclusive Freight Rail Easement"). The Exclusive Freight Rail Easement provides for freight rail operation by BNSF or its successor in interest on the rail line from MP 38.25 to MP 23.80 (as described in paragraphs 8-9 of the parties' Agreed Procedural and Factual History and Stipulation). The Exclusive Freight Rail Easement is subject to "Railbanking Requirements in the Event of Abandonment" ("Railbanking Covenants") set forth in the BNSF to Port Deed. The Exclusive Freight Rail Easement does not encompass or include

1 any utility rights in, on, or over the rail line, nor does it encompass or include the authority
2 to grant or convey such utility rights.

- 3 3. In particular, the BNSF to Port Deed at unnumbered page 2 references the Railbanking
4 Covenants as follows:

5 Port and BNSF for themselves and their respective successors and
6 assigns hereby further covenant and agree that the provisions of the
7 Railbanking Requirements in the Event of Abandonment, also
8 required by the Purchase and Sale Agreement and attached hereto as
9 Exhibit B are incorporated herein by reference and shall be
10 covenants running with the land that are enforceable by the parties
11 identified therein, and their respective successors and assigns, and
12 are for the benefit of the Property and the other portions of the
13 Washington Branch Line and Redmond Spur Right of Ways being
14 acquired by Port from BNSF by deeds dated as of the date set forth
15 herein.

- 16 4. The Railbanking Covenants are in turn set forth in detail at un-numbered pages 15-16 of
17 the BNSF to Port Deed. The Railbanking Covenants provide as follows:

18 If the holder of the reserved freight easement or its successor,
19 assignee or designee or other entity carrying out common
20 carrier freight service on the Property (each an "Abandonment
21 Applicant") elects to seek authority from the Surface
22 Transportation Board or any successor agency to abandon or
23 discontinue its freight common carrier obligation over some
24 or all of the Property, then such Abandonment Applicant shall
25 consent to a request by any or each of County, the Port, the
26 Central Puget Sound Regional Transit Authority or the
successor or designee of any of them (each a "Trail Use
Applicant") for the implementation of interim trail use in
accordance with Section 8(d) of the National Trails System
Act, codified at 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29, as
such provisions may be amended or interpreted by binding
judicial or administrative authority ("Railbanking Laws"),
provided the Trail Use Applicant meets all requirements of the
Railbanking Laws, including that the Trail Use Applicant agrees
to a trail use agreement as required by the Railbanking Laws. The
Abandonment Applicant shall cooperate with any or each Trail

1 Use Applicant in any application for authority to implement
2 interim trail use over all or any portion of the Property on which
3 the Abandonment Applicant seeks authority to abandon or
4 discontinue its freight common carrier obligation. If the holder
5 of the reserved freight easement or its successor, assignee or
6 designee or other entity carrying out common carrier freight
7 service on the Property ceases operations but fails within a
8 reasonable period of time to (a) seek abandonment authority, and
9 (b) respond to inquiries from any potential Trail Use Applicant
10 as to the status of its operations, any Trail Use Applicant may
11 elect to seek authority from the Surface Transportation Board or
12 any successor agency for a third- party abandonment and interim
13 trail use over some or all of the Property on which operations
14 have ceased. The holder of the freight easement or its successor,
15 assignee or designee or other entity carrying out common carrier
16 freight service on the Property shall not oppose any such action
17 by a Trail Use Applicant if the holder has ceased operations.

- 18 5. Subsequent to the conveyance of the underlying premises from BNSF to the Port (and as
19 described in the parties' Agreed Procedural and Factual History and Stipulation), BNSF
20 conveyed its reserved Exclusive Freight Rail Easement to GNP by another deed, recorded
21 in Snohomish County on December 21, 2009, under recording number 200912210439
22 ("BNSF to GNP Deed").
- 23 6. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

24 CONCLUSIONS OF LAW

25 Based upon the above Findings of Fact, IT IS HEREBY ORDERED:

- 26 1. The Court issues conclusions of law and grants judgment as follows:
- 27 2. The Railbanking Covenants run with the land and compel any owner of the Exclusive
Freight Rail Easement (as successor to BNSF), upon cessation of rail use of the rail line,
to seek federal rail abandonment authority (and cooperate in interim trail use and
railbanking if so requested), or to respond to inquiries from specified entities (such as the

1 County as successor to the Port) concerning the status of its operations. The Railbanking
2 Covenants further provide that the holder of the Exclusive Freight Rail Easement must
3 cooperate in railbanking and not oppose third party abandonment and interim trail use if
4 the holder has ceased rail operations on the rail line.

- 5 3. GNP is the holder of the Exclusive Freight Rail Easement and has ceased rail operations
6 on the Rail Line identified in paragraph 14 of the parties' Agreed Procedural and Factual
7 History and Stipulation. No other entity conducts rail operations on the Rail Line.
8
- 9 4. The County is successor to the Port's interests in the Rail Line. These interests include
10 all utility rights (other than as conveyed by the Port to a third party or retained by BNSF
11 and not conveyed to any third party) pursuant to: (a) a deed conveying the Port's interests
12 in the Rail Line to Snohomish County and recorded in Snohomish County on March 26,
13 2016, under recording number 201603250418; and (b) a bill of sale encompassing the
14 Port's physical assets (e.g., track and ties) in and on the Rail Line.
15
- 16 5. The Railbanking Covenants apply to the Exclusive Freight Rail Easement and Rail Line
17 and are binding upon GNP and the County as successors to BNSF and the Port,
18 respectively. The County has the right to enforce, and GNP the obligation to comply
19 with, the terms of the Railbanking Covenants.
20
- 21 6. The Railbanking Covenants now require that GNP: 1) seek abandonment authority or
22 support a County application for third-party abandonment authority of the Rail Line from
23 the Surface Transportation Board ("STB") (a federal agency); and 2) agree to railbank
24 the Rail Line for interim trail use at the County's request; and 3) otherwise cooperate in
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transferring the Exclusive Freight Rail Easement to the County for interim trail use and railbanking upon authorization from STB.

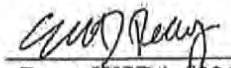
7. Plaintiff NW Signal Maintenance, LLC does not have any interest in the exclusive freight rail easement or rail line at issue in this case and is hereby dismissed from this cause.
8. Any Conclusion of Law deemed to be a Finding of Fact, or vice versa, is hereby adopted as such.

DATED this 24th day of August, 2023.


THE HON. Miguel M. Duan

DATED this 7th ^{August} day of June, 2023.

PRESENTED BY:

By: 
Sean Reay, WSBA #33622
Deputy Prosecuting Attorney
Attorney for Snohomish County

By: 
Kelsey Terry, WSBA #52417
Attorney for Plaintiffs GNP and NW Signal

Attachment 4

Declaration of Thomas P. Stowe Regarding Title and Related Matters

Exhibit A – Deed, BNSF to Port, recorded December 21, 2009

Exhibit B – Recorded Notice of Port/GNP RLY, Inc. “O&M” Agreement

Exhibit C – Operating and Maintenance (“O&M”) Agreement

Exhibit D – Deed, Port to Snohomish County, recorded March 25, 2016

Exhibit E – Bill of Sale, Port to Snohomish County

Exhibit F – Deed, BNSF to City of Snohomish relating to MP 38.25 to MP 39,
recorded Jan. 12, 2001, and

Deed, BNSF to City of Snohomish relating to same, recorded Jan. 15, 2009

Exhibit G – Deed, GNP RLY, Inc. to City of Woodinville
Relating to MP 23.8 to MP 26.38, recorded June 16, 2023

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BEFORE THE SURFACE TRANSPORTATION BOARD

SNOHOMISH COUNTY --

ADVERSE ABANDONMENT APPL. --

GNP RLY INC

in SNOHOMISH COUNTY, WA

No. AB 1331

DECLARATION OF THOMAS P.
STOWE REGARDING TITLE AND
RELATED MATTERS

I, Thomas P. Stowe, declare under penalty of perjury that the following is true and correct:

1. I am over the age of eighteen years; a citizen of the United States; and otherwise competent to testify. This declaration is based upon my personal knowledge, except where otherwise indicated. I have been requested to address ownership of the former BNSF rail line at issue in this proceeding both north and south of the portion of that line now owned by Snohomish County (MP 38.25 to MP 26.38) that is at issue in this proceeding, and to demonstrate the Snohomish County’s ownership interests (by way of deeds from BNSF to the Port of Seattle and the Port of Seattle to Snohomish County) that are germane inter alia to the legal concept of standing.

2. I am the Lead Review Appraiser for Snohomish County Public Works Department. I have held the senior and now the lead position since September 6, 2016. As Lead Review Appraiser for Snohomish County Public Works Department, my general duties include serving as the lead for the appraisal work group in Public Works and as the project manager for the appraisal services performed for County capital projects. I am the

1 technical expert regarding appraisals and appraisal reviews for Public Works, Executive
2 Office, Facilities Department, Parks Department, and other County departments. I consult
3 on the right-of-way aspects of projects and counsel staff on potential feasibility and
4 alternatives to achieve real estate objectives. I coordinate the appraisal efforts between the
5 appraisal workgroup and consultant appraisers. I select, hire, and assist in contracting
6 appraisal consultants, act as their client, and do their performance reviews. I perform
7 appraisals and appraisal reviews on full and partial acquisitions, uneconomic remnants,
8 and surplus properties for county projects in accordance with USPAP, WSDOT and
9 FHWA guidelines. I work with the assigned prosecuting attorney and Right-of-Way
10 Supervisor on eminent domain litigation cases, preparing trial strategy, briefing witnesses,
11 and may provide expert testimony in court proceedings on appraisal or appraisal review
12 issues. I assist with the writing of acquisition deeds (full, partial and easements) and
13 interpretation of existing deeds and other title documents. I assist with the acquisition,
14 disposal, and negotiation of non-eminent domain properties.
15

16
17 3. Before being employed with Snohomish County, I have been a real estate
18 appraiser since 1977 working for four full-service appraisal firms and two banks before
19 starting my own appraisal company in 1993. I am a designated member of the Appraisal
20 Institute, a past board member of the Seattle Chapter, and a member since 1980. I am a
21 senior member of the International Right of Way Association, past Puget Sound Chapter
22 president, international board member, and a member since 1994. I have been a
23 Washington State Certified General Real Estate Appraisal since 1991, when certification
24 started. I have served on the Washington State Attorneys General's Eminent Domain Task
25
26

1 Force, the King County Assessor's Advisory Board, the King County Growth
2 Management Planning Council, and Puget Sound Regional Council's East Corridor Task
3 Force of the Growing Transit Communities.

4 4. Relative to corridor properties, my assignments have included both the title
5 research into and appraisal or appraisal review for Seattle City Light, Snohomish PUD
6 and Puget Sound Energy utility corridors, the former Interurban rail/utility corridor
7 between Burlington and Bellingham, former rail corridors between City of Snohomish and
8 Arlington, Monroe and City of Snohomish, Duvall and Monroe, rail crossing acquisitions
9 across BN active rail line between Bellevue and Renton, and the BNSF active rail line at
10 Meadowdale.
11

12 5. Due to my education, training, and work experience, I am knowledgeable
13 about how title is conveyed, chaining title, how deeds are written and what rights they
14 convey (an essential part of complex appraisal valuations), reading and understanding
15 surveys and rail maps, writing easements and real estate agreements, real property
16 acquisition, condemnation under threat of eminent domain, condemnation under way of
17 necessity, negotiation, mediation, arbitration, and trial for determining real property rights.
18

19 6. In my capacity as Lead Review Appraiser, I also work as the Snohomish
20 County Department of Conservation and Resources Department's (Parks and Recreation
21 Division) project lead for research and analytics regarding the County's ownership of the
22 former BNSF railroad corridor between the City of Woodinville in King County and the
23 City of Snohomish in Snohomish County (also known as the "Eastside Rail Corridor" or
24 the "Centennial Trail South"). In Snohomish County, this originated as a "rail with trail"
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1 project, where the County's objective was to construct a trail alongside the existing rail
2 line so long as the rail line was viable, and otherwise, to railbank the property for future
3 rail use and install an interim trail. In this capacity, I am knowledgeable about the
4 County's ownership of the Eastside Rail Corridor, including with respect to competing
5 property claims and interests.

6 7. I am making this declaration before the Surface Transportation Board (STB)
7 for filing in the Adverse Abandonment Application AB-1331. All documents attached to
8 this declaration are true and correct copies of documents recorded by, or kept in the records
9 of, the Port of Seattle, Snohomish County, or King County, or may be found in the Surface
10 Transportation Board (STB) website e-library, from which they may be downloaded by a
11 member of the public. I make this declaration based on my examination of the underlying
12 documents pursuant to my expertise as an appraiser and examiner of title for Snohomish
13 County, as described above, and from personal knowledge, except as indicated herein.

14 8. The focus of this Declaration is on transactions concerning the so-called
15 "freight portion" of the Woodinville Subdivision. The Woodinville Subdivision extends
16 from approximately Mile Post (MP) 5.0 near Renton (in King County) to MP 38.25 in
17 City of Snohomish in Snohomish County. The "freight portion" extended from MP 23.8
18 in Woodinville (in King County) through MP 26.38 (Snohomish/King County line) to
19 MP 38.25 at City of Snohomish. As indicated herein (paragraph 12), City of
20 Woodinville recently acquired the segment from MP 23.8 to MP 26.38 for railbanking. I
21 will not detail the various transactions concerning the portion of the Woodinville
22 Subdivision in King County south of MP 23.8. Suffice it to say that pursuant to my
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1 research, I am satisfied that all of that line, inclusive of the Redmond Spur, has been
2 transferred to local units of government for railbanking (pursuant to STB decisions in
3 dockets AB 6 Sub Numbers 464X, 465X and 463X), with the exception of a segment at
4 Wilburton from MP 10.6 to MP 11.25.

5 9. Pursuant to a Purchase and Sale Agreement (PSA) dated May 12, 2008, as
6 amended several times, and appropriate STB authorities, BNSF transferred by deed
7 recorded December 21, 2009, the “freight portion” to the Port of Seattle, reserving an
8 “exclusive freight rail easement.” The easement was subject to a covenant running with
9 the land that provided inter alia that the holder of the exclusive freight rail easement in
10 the event of non-use for rail purposes must cooperate in abandonment and railbanking of
11 the premises. The relevant deed in Snohomish County is attached as Exhibit A hereto.
12 This transfer also included improvements (rail tracks, ties, and certain commercial and
13 industrial structures and fixtures). BNSF subsequently transferred its retained exclusive
14 freight rail easement to GNP RLY, Inc. At the same time, the parties recorded a
15 Memorandum of Operating and Maintenance Agreement (“O&M Agreement”)
16 governing use of the Port’s track and ties by GNP RLY, Inc. A copy of the recorded
17 notice is attached as Exhibit B. The entire agreement is set forth in Exhibit C. The
18 O&M Agreement was a kind of lease arrangement whereby the holder of the easement
19 agreed to provide maintenance of the improvements, insurance for the corridor, operate
20 in compliance with applicable regulations, and pay a quarterly fee of \$10 per loaded
21 freight car, and 5% of gross miscellaneous revenue. The O&M Agreement terminated
22 on the 10th anniversary of the Execution Date (i.e. December 18, 2019), unless the
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1 railroad (then ECR) provided notice of an extension one year prior, which it did not
2 provide and stated it would not.

3 10. Pursuant to appropriate STB authorities, the Port by deed recorded March
4 25, 2016, transferred all its interests in the “freight portion” inside Snohomish County to
5 Snohomish County. A copy of that deed is attached as Exhibit D. Also attached as
6 Exhibit E is a true and correct copy of the bill of sale from the Port to Snohomish
7 County for all the improvements (e.g., track and ties) for the “freight segment” in
8 Snohomish County.
9

10 11. Despite the County’s objections, ECR (the then-STB licensee for the line) in
11 a May 4, 2018 email to the County stated it would let the O&M Agreement expire at the
12 end of its term (December 18, 2019), which ECR verified in its STB filing 246219
13 (August 21, 2018). Upon expiration of the O&M, the railroad easement holder no longer
14 had a state law basis authorizing it to use or to occupy the County’s improvements
15 between MP 38.25 and MP 26.38. ECR also refused to negotiate an alternative
16 arrangement for use of County improvements. ECR and its operator (BTRC) suspended
17 per carload payments to Snohomish County upon termination of the O&M and (by their
18 actions) took the position that ECR had no other obligations specified in the O&M to
19 Snohomish County for use of the County’s property. In the absence of any “O&M” or
20 replacement agreement, the STB licensee no longer had any state law permission/right to
21 use the County’s improvements but continued to use the property (except during
22 embargoes) pursuant to its federal license. Rail use did not resume by any entity after
23 the embargo effective August 1, 2020.
24
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1 12. City of Woodinville recorded a deed from GNP RLY, Inc. for the railbanked
2 portion of the line involved in AB 1316X, namely MP 23.8 to MP 26.38, on June 16,
3 2023, in King County. The relevant deed is attached as Exhibit G.

4 13. To the best of my knowledge, all rail use of the railroad easement for rail
5 purposes ceased no later than August 15, 2020, when ECR embargoed it (at which time
6 ECR's operator, Ballard Terminal Railroad Company, withdrew all of its equipment).
7 The covenant running with the land (discussed in paragraph 9 and found in Exhibit A)
8 accordingly governs disposition of the remaining railroad easement south of MP 38.25 in
9 Snohomish County, at least for state law purposes.
10

11 14. As to the old BNSF line north of MP 38.25, my research shows that BNSF
12 sold the segment of the rail line from MP 38.25 to MP 39.1 (all in the City of
13 Snohomish) to the City of Snohomish by deeds recorded January 12, 2001, and January
14 15, 2009. The 2001 deed conveyed a two-block strip along the west side of the BNSF
15 line; the 2009 deed conveyed the east side of those two blocks plus the remainder of the
16 BNSF ownership between MP 38.25 and MP 39.1. The relevant deeds are attached as
17 Exhibit F. Snohomish County owns the previously abandoned railroad right of way
18 north of approximately MP 39.1 all the way to the Skagit County line. Snohomish
19 County operates this portion of the right of way as the Centennial Trail.
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24 Pursuant to 28 USC 1746, I certify under penalty of perjury under the laws of the United
25 States of America that the foregoing is true and correct to the best of my knowledge and
26 belief.

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Pursuant to 28 USC 1746, I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Signed this eleventh day of October 2023 at Everett, Washington.



THOMAS P. STOWE

DECLARATION OF THOMAS P. STOWE

TABLE OF EXHIBITS

Quit Claim Deed – Woodinville North Freight Portion BNSF Railway Company to Port of Seattle, dated December 18 th , 2009	Exhibit A
Memorandum of Operation and Maintenance Agreement Port of Seattle to GNP Rly Inc., dated December 18 th , 2009	Exhibit B
Operations and Maintenance Agreement Between Port of Seattle and GNP RLY. INC Unrecorded, dated December 18 th , 2009	Exhibit C
Quit Claim Deed – [Woodinville North Freight Portion] Port of Seattle to Snohomish County, dated March 17, 2016	Exhibit D
Bill of Sale – [Port of Seattle to Snohomish County] Conveyance of all structures and fixtures (including track and ties) Unrecorded dated March 24 th , 2016	Exhibit E
Quit Claim Deeds – [BNSF to City of Snohomish] Conveyance of a portion of west side of line between 3 rd St. and 5 th St. [no MP numbers are given in the deed], dated January 6 th , 2001 Conveyance of BNSF ownerships within the City [no MP numbers are given in the deed], dated January 8 th , 2009	Exhibit F
Quit Claim Deed – [GNP RLY Inc. to City of Woodinville] Conveyance of BNSF ownerships within the City [no MP numbers are given in the deed], dated June 7 th , 2023	Exhibit G

EXHIBIT A

226603

After Recording Return To:
Port of Seattle, Legal Department
PO Box 1209
Seattle, WA 98111
Attn: Isabel R Safora



200912210438 16 PGS
12/21/2009 2:41pm \$77.00
SNOHOMISH COUNTY, WASHINGTON

Quit Claim Deed
Woodinville North
Freight Portion

226604

PNWT W-20611-9

Grantor: BNSF Railway Company

Grantee: Port of Seattle

Abbreviated Legal:

000000000000100 TOP

SW1/4 18-28-6
Lot 4 and 5 Block 2 Snohomish City Eastern Part Vol. 1 page 7
Govt Lots 1 and 2, and the NW 1/4 of 19-28-6
NE and SE 24-28-5
NE 25-28-5
Govt 1,2,3,5, and 6 of 30-28-6
Govt 3,4,8 and SW1/4 and NW1/4 31-28-6
Pnt Lot 139 Cathcart 9X39
Gvt 4,5,6,7 of 6-27-6
Gvt 1,2,3,4, and the SW 1/4 of 7-27-6
Gvt 2,3,4 and NW 1/4 of 18-27-6
Gvt 1,2 of 19-27-6
NE of 12-27-5
NE, SW, SE of 24-27-5
Gvt 4 of 31-27-5
NW, SW of 25-27-5
NE, NW, SW of 26-27-5
NW of 35-27-5
NE, SE, SW of 34-27-5
In Snohomish County

788,886.32

12/21/2009 2:16 PM

Thank you for your payment.
GERI

No. 5388698

Thank you for your payment.
GERI

788,886.32

12/21/2009 2:16 PM

Thank you for your payment.
GERI

No. 5388698

Thank you for your payment.
GERI

After Recording Return To:
Port of Seattle, Legal Department
P.O. Box 1209
Seattle, WA 98111
Attn: Isabel R. Safora

Said document(s) were filed for
record by Pacific N.W. Title as accommodation
only. It has not been examined as to
proper execution or as to its effect
upon title.

QUIT CLAIM DEED

Woodinville North
Freight Portion

PNWT 10-20611-9

Grantor: BNSF RAILWAY COMPANY ("BNSF")

Grantee: PORT OF SEATTLE ("Port")

Legal Description: See Exhibit A attached hereto and incorporated herein (the "Property").

Grantor, for and in consideration of TEN AND NO/100 DOLLARS (\$10.00) conveys and quit claims to Grantee, the Property, situated in the County of King, State of Washington, together with all after acquired title of the Grantor therein.

EXCEPTING AND RESERVING THEREFROM, an exclusive easement for freight rail purposes for Grantor and its successors and assigns, subject to the covenant for Railbanking Requirements in the Event of Abandonment set forth herein.

Port and BNSF are parties to that certain Purchase and Sale Agreement dated as of May 12, 2008, as amended, concerning the Property. Port and BNSF for themselves and their respective successors and assigns hereby covenant and agree that the provisions of Sections 6 and 7 of said Agreement attached hereto in Exhibit B, are incorporated herein by reference (with all references to Port and/or County together therein deemed to be references to Port only) and that all these provisions shall be covenants running with the land that are enforceable by Port, BNSF and their respective successors and assigns. Port and BNSF for themselves and their respective successors and assigns hereby further covenant and agree that the provisions of the Railbanking Requirements in Event of Abandonment, also required by the Purchase and Sale Agreement and attached hereto in Exhibit B are incorporated herein by reference and shall be covenants running with the land that are enforceable by the parties identified therein, and their respective successors and assigns, and are for the benefit of the Property and the other portions of the Washington Branch Line and Redmond Spur Right of Ways being acquired by Port from BNSF by deeds dated as of the date set forth herein.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, BNSF and Port have executed this Deed as of the 16 day of December, 2009.

BNSF RAILWAY COMPANY

By *Dan Rands*
Its: Senior General Attorney

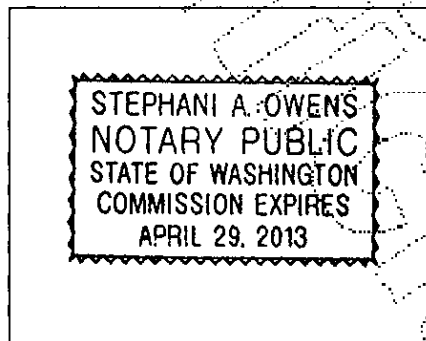
PORT OF SEATTLE

By *Robert T.*
Its

STATE OF Washington)
) ss.
COUNTY OF King)

I certify that I know or have satisfactory evidence that David T. Rankin is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Senior General Attorney of BNSF Railway Company to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 12-17-09



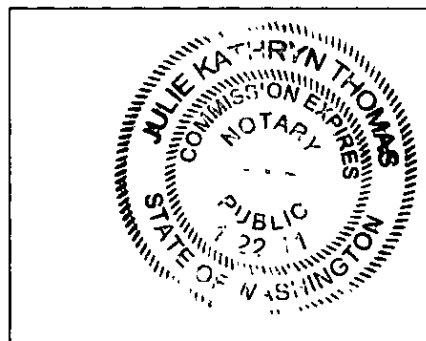
Stephani A. Owens
Notary Public
Print Name Stephani A Owens
My commission expires 4-29-2013

(Use this space for notarial stamp/seal)

STATE OF WASHINGTON)
) ss.
COUNTY OF King)

I certify that I know or have satisfactory evidence that Jay Yashitani is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the CEO of the Port of Seattle to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: Dec. 17, 2009



Julie Kathryn Thomas
Notary Public
Print Name Julie Kathryn Thomas
My commission expires 1-22-11

(Use this space for notarial stamp/seal)

Exhibit A to Deed for Freight Portion

All that portion of BNSF Railway Company's (formerly Northern Pacific Railway Company) Snohomish (MP 38.25) to Woodinville (MP 23.8), Washington Branch Line right of way, varying in width on each side of said Railway Company's Main Track centerline, as now located and constructed upon, over and across Snohomish County and King County, Washington, more particularly described as follows, to-wit:

SNOHOMISH COUNTY

That portion of that certain 60.0 foot wide Branch Line right of way being 30.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across State Street, as said street is shown on plat of Snohomish City Eastern Part, recorded as Instrument No. 187204125001 in Book 1, Page 7, records of the Snohomish County, Washington Auditor, lying southerly of the Easterly prolongation of the centerline of vacated Commercial Street, as said Commercial Street is shown on said plat; also

That portion of the Southerly half of vacated Commercial Street as said street is shown on the plat of Snohomish City Eastern Part, recorded as Instrument No. 187204125001 in Book 1, Page 7, records of the Snohomish County, Washington; vacated by ordinance No. 354 of the City of Snohomish, State of Washington, passed May 16, 1911, described as follows:

Beginning at the northeast corner of Lot 5, Block 2 of said plat of Snohomish City Eastern Part; thence Westerly, along the northerly line of said Lot 5, a distance of 20 feet, more or less, to a point 50 feet distant westerly, when measured at right angles from the centerline of State Street, as said State Street is shown on said plat; thence Northerly, along a line 50 feet westerly from the center line of said State Street, 30 feet, more or less to the centerline of said Commercial Street; thence Easterly, along said centerline of Commercial Street, 20 feet, more or less to the northerly prolongation of the east line of said Lot 5, thence Southerly, along said northerly prolongation, 30 feet, more or less, to Point of Beginning; also,

Lots 4 and 5, of Block 2 as shown on plat of Snohomish City Eastern Part, recorded as Instrument No. 187204125001 in Book 1, Page 7, records of the Snohomish County, Washington; also,

That portion of that certain 50.0 foot wide Branch Line right of way being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 4, Section 18, Township 28 North, Range 6 East, W. M., bounded Northeasterly by the Southwesterly Bank of the Snohomish River, an bounded Southwesterly by a line parallel with and distant 50.0 feet Northeasterly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed, together with all right, title and interest if any, to accommodate said railway company's facilities and operations over and across the Snohomish River; also

That portion of that certain 50.0 foot wide Branch Line right of way being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 4, Section 18, Township 28 North, Range 6 East, W. M., bounded Northeasterly by a line parallel with and distant 150.0 feet Southwesterly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed, and bounded Southerly by the Southerly line of said Government Lot 4; also

A triangular shaped tract of land being that portion of Government Lot 4, Section 18, Township 28 North, Range 6 East, W. M., bounded Northeasterly by a line parallel with and distant 150.0 feet Southwesterly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed, bounded Northwesterly by a line parallel with and distant 25 feet Easterly from, measured at right angles to said Railway Company's Branch Line right of way Main Track centerline as originally located and constructed and bounded Southerly by the Southerly line of said Government Lot 4; also

That certain 0.11 acre strip of land described in deed dated September 9, 1903 from J. H. Shadinger and Hattie E. Shadinger to Northern Pacific Railway Company recorded September 19 in Book 80, Page 296, records of Snohomish County, Washington, said 0.11 acre strip of land being described in said deed for reference as follows:

"A strip of land eighty (80) feet in width across that certain thirty-three (33) foot strip of land in Lot four (4), Section eighteen (18), Township twenty-eight (28) north, Range six (6) east, W.M., which lies immediately south of, parallel with and contiguous to the right of way of the Great Northern Railway Company across said subdivision; said eighty (80) foot strip of land having for its east and west boundaries two lines that are parallel with and respectively distant twenty-six (26) feet on the northeasterly side and fifty-four (54) feet on the southwesterly side of the center line of the proposed track which is to connect the Great Northern Railway with the Northern Pacific Railway as the same is located, staked and constructed over and across said subdivision; containing 0.11 acres, more or less."; also,

That certain 1.94 acre strip of land described in deed dated September 9, 1903 from Kate G. Ford, D. A. Ford, Ruth S. Ford and D. A. Ford as sole executor to Northern Pacific Railway Company recorded September 19 in Book 80, Page 298, records of Snohomish County, Washington, said 1.94 acre strip of land being described in said deed for reference as follows:

"All that portion of Lot four (4), Section eighteen (18) and of Lot one (1) (or the northwest quarter of the northwest quarter) of Section nineteen (19), Township twenty-eight (28) north, Range six (6) east, W.M., lying westerly of the Northern Pacific Railway Company's right of way and southerly of a line drawn parallel with and thirty-three (33) feet distant southerly from the south line of the Great Northern Railway Company's right of way and between lines drawn parallel with and respectively distant twenty-six (26) feet easterly from and fifty-four (54) feet westerly from the center line of the proposed track which is to connect the Northern Pacific Railway with the Great Northern Railway as the same is now located, staked out and to be constructed over and across said premises; said strip of land containing 1.94 acres, more or less."; also;

That certain .08 acre strip of land described in deed dated April 25, 1908 from Robert Henry and Margaret R. Henry to Northern Pacific Railway Company recorded June 1, 1908 in Book 110 of Deeds, Page 509, records of the County Auditor, Snohomish County, Washington, said .08 acre strip of land being described in said deed for reference as follows:

"A strip of land thirty (30) feet wide described as follows: Beginning at a point on the section line between Sections 18 and 19, Township 28 North, Range 6 East, Willamette Meridian, fifty-five (55) feet distant measured at right angles from the center line of the main track of the said Railway Company as the same is now located, constructed, maintained and operated through said sections; thence northeasterly on a line parallel with and fifty-five (55) feet distant from said center line one hundred ten (110) feet, more or less, to the south line of the Tacoma Power Company's right of way; thence southeasterly along the south line of said Tacoma Power Company's right of way thirty (30) feet to the westerly line of the present right of way of said Northern Pacific Railway Company, which line at that point is twenty-five (25) feet from the center line of the main track of said Railway Company; thence southwesterly along said

westerly line of the right of way one hundred ten (110) feet, more or less, to the point where said right of way widens to fifty (50) feet on each side of said center line; thence westerly twenty-five (25) feet to point of intersection with the above described section line; thence west along said section line five (5) feet, more or less, to place of beginning, said strip being situated in Lot four (4) Section eighteen (18) and Lot one (1) Section nineteen (19) all in Township twenty-eight (28) North, Range six (6) East, Willamette Meridian and containing eight hundredths (.08) of an acre, more or less.”; also,

That portion of said Railway Company’s property in Government Lot 4, Section 18, Township 28 North, Range 6 East, W. M., Snohomish County, Washington, bounded Northeasterly and Southwesterly by two lines drawn parallel with and distant Southwesterly 150.0 feet and 183.0 feet, respectively, from, measured at right angles to said Railway Company’s (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed and bounded Southeasterly and Northwesterly by two lines drawn parallel with and distant Northwesterly 25.0 feet and 50.0 feet, respectively, from, measured at right angles to said Railway Company’s Branch Line Main Track centerline as now located and constructed; also,

That portion of that certain 100.0 foot wide Branch Line right of way, in the Town of Bromart, Snohomish County, Washington, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Lots 1 and 2, Section 19, Township 28 North, Range 6 East, W. M., Snohomish County, Washington, bounded Northerly by the North line of said Section 19, and bounded Westerly by the West line of said Section 19; also,

That portion of said Railway Company’s property in Lots 1 and 2, Section 19, Township 28 North, Range 6 East, W. M., Snohomish County, Washington, bounded as follows: Westerly by a line parallel with and distant 50.0 feet Easterly from, measured at right angles to said Railway Company’s Branch Line Main Track centerline as now located and constructed; Northerly by the North line of said Section 19 and Easterly by the following described line:

Beginning at a point on a line parallel with and distant 50.0 feet Southerly from, measured at right angles to said Railway Company’s (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline, as originally located and constructed, opposite Station 512+68.45, said point of beginning being the point of a curve to the left having a radius of 621.20 feet; thence westerly, along the arc of said curve to the left and consuming a central angle of $90^{\circ}57'06''$, an arc distance of 986.10 feet to the point of tangency of said curve, said point of tangency being 125 feet easterly, when measured at right angles from Station 1963+97.51 on said Railway Company’s Branch Line Main Track centerline; thence southerly, along a line drawn parallel and/or concentric with and 125 feet easterly, when measured at right angles and/or radially, from said Branch Line Main Track centerline, to a point opposite Station 1956+00 on said Railway Company’s Branch Line Main Track centerline; thence westerly, along a line drawn radially with the centerline of said Railway Company’s Branch Line Main Track centerline, a distance of 25 feet; thence southerly, along a line drawn concentric with and 100 feet easterly, when measured radially, from the centerline of said Railway Company’s Branch Line Main Track centerline, to a point opposite Station 1953+00 on the centerline of said Railway Company’s Branch Line Main Track centerline; thence westerly along a line drawn radially with the centerline of said Railway Company’s Branch Line Main Track centerline, a distance of 25 feet; thence southerly, along a line drawn concentric with and 75 feet easterly, when measured radially from said Railway Company’s Branch Line Main Track centerline to the west line of said Section 19, also being the terminus of the herein described line.

EXCEPTING THEREFROM, a strip of land 30 feet wide, the center line of which is 435 feet north from and parallel with the East and West centerline of said Section 19, extending from the west line of said Section 19 to the East boundary of said hereinabove described tract; **ALSO EXCEPTING THEREFROM**, that portion of said hereinabove described tract lying northerly of a line parallel with

and distant 150.0 feet Southerly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline, as originally located and constructed, also,

That portion of that certain 100.0 foot wide Branch Line right of way, in the Town of Bromart, Snohomish County, Washington, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the E $\frac{1}{2}$ E $\frac{1}{2}$ Section 24, the E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 25, all in Township 28 North, Range 5 East, W. M., bounded Northerly by the East line of said E $\frac{1}{2}$ E $\frac{1}{2}$ Section 24, and bounded Southerly by the East line of said E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 25; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lots 1, 2, 3, 5, 6, of Section 30, Township 28 North, Range 6 East, W. M., bounded Westerly by the West lines of said Lots 1 and 2 and bounded Southerly by the South line of said Lot 5; also,

That portion of that certain 110.0 foot wide Branch Line right of way, being 60.0 feet Westerly and 50.0 feet Easterly of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 8 of Section 31, Township 28 North, Range 6 East, W. M., bounded Northerly and Southerly by the North and South lines of said Lot 8; also,

That portion of that certain 200.0 foot wide Branch Line right of way, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 3, the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, Township 28 North, Range 6 East, W. M., bounded Northerly by the North line of said SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 31, and bounded Southerly by the South line of said Government Lot 3 and its easterly prolongation; also,

That certain 2.0 acre tract of land described in deed dated April 13, 1918 from John S. Eby to the Northern Pacific Railway Company, recorded April 20, 1918 in Volume 180 of Deeds, Page 451, records of Snohomish County, Washington, said tract being described in said deed for reference as follows:

"That property of the grantor (being the north nine hundred forty-five and five tenths (945.5) feet, more or less, of the south eleven hundred forty-three and five tenths (1143.5) feet of the north-half of the southwest quarter (N $\frac{1}{2}$ of SW $\frac{1}{4}$) of section thirty-one (31) in Township twenty-eight (28) north of range six (6) east of the Willamette Meridian, west of the present right of way of said Railway Company lying between lines parallel with and distant respectively one hundred (100) and one hundred fifty (150) feet westerly from the center line of the present main track of said Railway Company, as the same is now constructed and operated over and across said section; also that portion of said N $\frac{1}{2}$ of SW $\frac{1}{4}$ lying between lines parallel with and distant respectively one hundred fifty (150) and two hundred (200) feet westerly from said above named main track center line and between a line parallel with and distant one hundred ninety-eight (198) feet northerly from the south line of said government subdivision and a line drawn at right angles to said main track center line at a point distant twenty-one hundred thirty-four and eight tenths (2134.8) feet northerly from its point intersection with the south line of said section 31, containing in all two (2) acres, more or less."; also,

That certain 0.35 acre tract of land described in deed dated March 25, 1918 from John Grinier and Alice Grinier to the Northern Pacific Railway Company, recorded April 10, 1918 in Volume 180 of Deeds, Page 401, records of Snohomish County, Washington, said tract being described in said deed for reference as follows:

"A strip of land of the Westerly side of and adjacent to the present two hundred (200) foot right of way of said Railway Company in the south six (6) acres (or the south one hundred ninety-eight (198) feet more

or less, of the north-half of the southwest quarter ($N\frac{1}{2}$ of $SW\frac{1}{4}$) of section thirty-one (31) in Township twenty-eight (28) north of range six (6) east of the Willamette Meridian, said strip of land being more particularly described as follows:

"Beginning at a point on the south line of said $N\frac{1}{2}$ of $SW\frac{1}{4}$, one hundred (100) feet distant westerly, measured at right angles, from the present main track of said Railway Company, as the same is now, constructed and operated over and across said section; thence northerly on a line parallel with and one hundred (100) feet distant westerly from said center line to the north line of the property of said grantors (being the north line of the south 198 feet, more or less of the above named government subdivision); thence west along said north line to a point two hundred (200) feet distant westerly, measured at right angles, from said main track center line; thence southeasterly in a straight line to a point on the south line of said above named government subdivision fifty-five (55) feet west of the point of beginning; thence east to the point of beginning, containing thirty-five hundredths ($35/100$) acres, more or less."; also,

That certain tract of land described in deed dated December 15, 1937 from Ella L. Moulton to the Northern Pacific Railway Company, recorded February 19, 1938 in Volume 238 of Deeds, Page 102, records of Snohomish County, Washington, said tract of land being described in said deed for reference as follows:

"That portion of Tract No. 139 as shown on the official plat of CATHCART on file and of record in the office of the Auditor of said County situate within the south half of southwest quarter ($S\frac{1}{2}$ of $SW\frac{1}{4}$) of section thirty-one (31) in township twenty-eight (28) north of range six (6) east of the Willamette Meridian, lying easterly of a line parallel with and distant fifty (50) feet westerly measured at right angles, from the center line of the present main track of the Northern Pacific Railway Company as the same is now constructed and operated over and across said section thirty-one."; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 4 in Section 31, Township 28 North, Range 6 East, W. M., Government Lots 4, 5, 6 and 7 in Section 6, Government Lots 1, 2, 3, 4 and the $SE\frac{1}{4}SW\frac{1}{4}$ Section 7, Government Lots 2, 3, 4 and the $E\frac{1}{2}NW\frac{1}{4}$ Section 18, Government Lots 1 and 2 Section 19, all in Township 27 North, Range 6 East, W. M., the $E\frac{1}{2}E\frac{1}{2}NE\frac{1}{4}$ Section 12, and the $SE\frac{1}{4}NE\frac{1}{4}$ and the $NE\frac{1}{4}SE\frac{1}{4}$ Section 24, all in Township 27 North, Range 5 East, W. M., bounded Northerly by the North line of said Government Lot 4 in Section 31, and bounded Southerly the West line of said $NE\frac{1}{4}SE\frac{1}{4}$ Section 24; also

That portion of that certain 200.0 foot wide Maltby Station Ground property, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the $W\frac{1}{2}SE\frac{1}{4}$ Section 24, Township 27 North, Range 5 East, W. M., bounded Easterly and Westerly by the East and West lines of said $W\frac{1}{2}SE\frac{1}{4}$ Section 24, **EXCEPTING THEREFROM**, that portion of said 200.0 foot wide Station Ground property lying Northwesterly of a line concentric with and distant 25.0 feet Northwesterly from, measured radially to said Railway Company's Main Track centerline as now located and constructed; also

That portion of that certain 100.0 foot wide Maltby Station Ground property, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the $E\frac{1}{2}SW\frac{1}{4}$ Section 24, Township 27 North, Range 5 East, W. M., bounded Northerly by the East line of said $SW\frac{1}{4}$ Section 24 and bounded Southerly by the South Line of said $SW\frac{1}{4}$ Section 24; **EXCEPTING THEREFROM**, that portion lying Northwesterly of a line concentric with and distant 25.0 feet Northwesterly from, measured radially to said Railway Company's Main Track centerline as originally located and constructed, bounded Northeasterly by the East line of said $SW\frac{1}{4}$ Section 24, and bounded Southwesterly by the Easterly edge of the travelway of the Street connecting 91st Avenue SE with Yew.

Way in the City of Maltby, Washington, as now located and constructed in a generally Southerly direction from 91st Avenue SE, and about 100 feet Southwesterly of the North-South quarter line of said Section 24, as measured along said Main Track centerline; also,

That portion of that certain 200.0 foot wide Maltby Station Ground property, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the NW $\frac{1}{4}$ Section 25, Township 27 North, Range 5 East, W. M., bounded Northerly and Southerly by the North and South lines of said NW $\frac{1}{4}$ Section 25; also

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25, Township 27 North, Range 5 East, W. M., bounded Northerly and Westerly by the North and West lines of said NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25; also,

That portion of that certain 200.0 foot wide Branch Line right of way, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25, the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and the NE $\frac{1}{4}$ Section 26, all in Township 27 North, Range 5 East, W. M., bounded on the East by the East line of said NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25, and bounded on the West by the West line of said NE $\frac{1}{4}$ Section 26; also

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 26, Township 27 North, Range 5 East, W. M., bounded Easterly by the East line of said SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 26, and bounded Westerly by the West line of said NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 26; also,

That portion of that certain 200.0 foot wide Branch Line right of way, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 26, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, all in Township 27 North, Range 5 East, W. M., bounded on the East by the East line of said W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 26, and bounded on the South by the South line of said NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, **EXCEPTING THEREFROM**, that portion lying Westerly of a line parallel and/or concentric with and distant 50.0 feet Westerly from, measured at right angles and/or radially to said Railway Company's Main Track centerline as originally located and constructed, bounded on the North by the North line of said Section 35, and bounded on the South by a line radial to said Main Track centerline at a point 530.0 feet South of the North line of said Section 35, as measured along said Main Track centerline; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, all in Township 27 North, Range 5 East, W. M., bounded on the North by the North line of said SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, and bounded on the South by the South line of said NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34; also,

That portion of that certain 50.0 foot wide Branch Line right of way, being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, Township 27 North, Range 5 East, W. M., bounded on the North by the North line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, and bounded on the South by a line radial to said Railway Company's Main Track centerline, as originally located and constructed, at a point distant 600 feet Southwesterly of said North line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, as measured along said Main Track centerline; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said

Main Track centerline, as originally located and constructed, upon, over and across the S½SE¼ and the SE¼SW¼ Section 34, Township 27 North, Range 5 East, W. M., bounded on the North by a line radial to said Railway Company's Main Track centerline, as originally located and constructed, at a point distant 600 feet Southwesterly of said North line of said SE¼SE¼ Section 34, as measured along said Main Track centerline, and bounded on the South by the South line of said Section 34, said line also being the South line of Snohomish County Washington.

KING COUNTY

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across the Lots 2, 3, the S½N½, and the E½SW¼ Section 3, the NW¼ Section 10, all in Township 26 North, Range 5 East, W. M., bounded on the North by the North line of said Section 3, said line also being the North line of King County, Washington, and bounded on the West by the West line of said NW¼ Section 10, **EXCEPTING THEREFROM**, that portion lying Easterly of a line parallel with and distant 20 feet Easterly from, measured at right angles to said Railway Company's Main Track centerline as now located and constructed, bounded on the North by the South line of 8th Street, according to the recorded plat of Bear Creek Addition to Day City, Washington, and bounded on the South by a line perpendicular to said Railway Company's Main Track centerline distant 450.0 feet Southerly from the North line of said E½SW¼ Section 3, as measured along said Main Track centerline; also,

A 100 foot wide strip of land being that portion of that certain 100.0 foot wide strip of land described in deed dated June 8, 1887 from Ira Woodin and Susan Woodin to Seattle and West Coast Railway, recorded June 14, 1887 in Book 42 of Deeds, Page 410, records of King County, Washington, that portion of that certain 100.0 foot wide strip of land described in deed dated July 26, 1890 from Ira Woodin and Susan Woodin to Seattle and West Coast Railway, recorded November 10, 1890 in Book 112 of Deeds, Page 556, records of King County, Washington, and that certain 100.0 foot wide strip of land described in deed dated June 14, 1887 from Mary B. Jaderholm to Seattle and West Coast Railway, recorded June 14, 1887 in Book 41 of Deeds, Page 385, records of King County, Washington, lying in Section 9, Township 26 North, Range 5 East, W. M., bounded on the East by the East line of said Section 9, and bounded on the West by a line drawn radially to said Railway Company's Main Track centerline, distant 1867.0 feet Easterly of the West line of said Section 9, also being the Easterly boundary of that certain Tract VIII described in deed dated December 19, 1985 from Burlington Northern Railroad Company to King County, recorded in the records of King County, Washington as Instrument No. 198512191094, **EXCEPTING THEREFROM**, that certain tract of land described in Deed dated June 29, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded May 22, 2000 as Document No. 20000522001158, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that portion of that certain tract of land described in deed dated November 17, 1998 from The Burlington Northern and Santa Fe Railway Company to Tjossem Properties IV, LLC and Tjossem Properties V, LLC, recorded December 23, 1998 as Instrument No. 9812240021, which lies within said 100.0 foot strip of land; also,

That certain 0.32 acre tract of land described in deed dated July 24, 1903 from Frank A. Woodin and Anna Woodin to Northern Pacific Railway Company recorded July 30, 1903 in Book 370 of Deeds, Page 89, records of King County Washington, said 0.32 acre tract being described in said deed for reference as follows:

"All that portion of the Southeast quarter of the Northeast quarter (SE¼ of NE¼) of Section Nine (9), Township Twenty-six (26) North, Range Five (5) East, W.M., described by metes and bounds as follows: Beginning at the point where the southeasterly line of the present right of way of the Northern Pacific

Railway intersects the south line of the said Southeast quarter of the Northeast quarter (SE/4 of NE/4) and running thence east along the south line of said Southeast quarter of the Northeast quarter (SE/4 of NE/4) a distance of 190 feet, more or less, to a point which is 50 feet distant from, when measured at right angles to, the center line of the proposed Seattle Belt Line Branch of the Northern Pacific Railway as the same is now located, staked out and to be constructed over and across said Government subdivision; thence running northeasterly and parallel with and 50 feet distant from said center line of the Seattle Belt Line Branch a distance of 400 feet, more or less, to a point in the southeasterly line of the present right of way of the Northern Pacific Railway, thence southwesterly along said right of way line to point of beginning; containing 0.32 acres, more or less."

A 100 foot wide strip of land lying in the N/2 of the SE/4 of Section 9, Township 26 North, Range 5 East, W. M., being that certain 1.91 acre tract of land described in deed dated May 19, 1903 from Mary B. Hansen and Anders Hansen to Northern Pacific Railway Company recorded May 28, 1903 in Volume 361 of Deeds, Page 48, records of King County, Washington and that certain 0.92 acre tract of land described in deed dated July 1, 1903 from A. J. Milton and Anna Milton to Northern Pacific Railway Company recorded July 10, 1903 in Volume 363 of Deeds, Page 211, records of records of King County, Washington, said 100 foot wide strip being described as follows:

That certain 0.03 acre triangular tract of land described in deed dated June 4, 1923 from Mary B. Hansen and A. Hansen to Northern Pacific Railway Company recorded June 8, 1923 in Volume 1192 of Deeds, Page 539, records of King County, Washington, said 0.03 acre tract being described in said deed for reference as follows:

"That certain triangular portion of the northeast quarter of southeast quarter (NE¼ of SE¼) of section nine (9) in township twenty-six (26) north of range five (5) east of the Willamette Meridian, lying easterly of and between the rights of way of the Northern Pacific Railway Company for its Snoqualmie Branch and its Lake Washington Belt Line and westerly of a line parallel with and distant twenty-five (25) feet easterly, measured at right angles from the center line of the proposed wye track connection between said branch lines as the same is now located, staked out and to be constructed over and across said premises, containing three hundredths (0.03) acres, more or less."; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across that portion of the N½SE¼ of Section 9, Township 26 North, Range 5 East, W. M., King County, Washington lying Northerly of the Southwesterly boundary of that certain 100 foot wide tract of land described in deed dated June 14, 1887 from Mary B. Jaderholm to Seattle and West Coast Railway, recorded June 14, 1887 in Volume 41 of Deeds, Page 385, records of said County.

Exhibit B to Deed for Freight Portion

COVENANTS

Section 6. Condition of Property.

(a) Port and County have been, or by Closing will have been, allowed to make an inspection of the Property. Subject to BNSF's express representations, warranties and obligations under this Agreement and the Deed, **PORT AND COUNTY ARE PURCHASING THEIR INTERESTS IN THE PROPERTY IN AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, ARE NOT RELYING ON, AND HEREBY WAIVE ANY WARRANTY OF MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM BNSF WITH RESPECT TO ANY MATTERS CONCERNING THE PROPERTY** including, but not limited to the physical condition of the Property; zoning status; tax consequences of this transaction; utilities; operating history or projections or valuation; compliance by the Property with Environmental Laws (defined below) or other laws, statutes, ordinances, decrees, regulations and other requirements applicable to the Property; the presence of any Hazardous Substances (defined below), wetlands, asbestos, lead, lead-based paint or other lead containing structures, urea formaldehyde, or other environmentally sensitive building materials in, on, or under the Property; the condition or existence of any of the above ground or underground structures or improvements, including tanks and transformers in, on or under the Property; the condition of title to the Property, and the Third Party Leases/Licenses permits, orders, or other agreements, affecting the Property (collectively, the **"Condition of the Property"**).

(b) Port and County individually represent and warrant for itself to BNSF that except for BNSF's express representations, warranties and obligations under this Agreement and the Deed, Port and County each has not relied and will not rely on, and BNSF is not liable for or bound by, any warranties, guaranties, statements, representations or information pertaining to the Property or relating thereto made or furnished by BNSF, the manager of the Property, or any real estate broker or agent representing or purporting to represent BNSF, to whomever made or given, directly or indirectly, orally or in writing.

(c) Subject to BNSF's express representations, warranties and obligations under this Agreement and the Deed Port and County assume the risk that Hazardous Substances or other adverse matters may affect the Property that were not revealed by Port's or County's inspection and except to the extent of BNSF's express representations, warranties and obligations under this Agreement and the Deed, Port and County each waives, releases and discharges forever BNSF and BNSF's officers, directors, shareholders, employees and agents (collectively, **"BNSF Parties"**) from any and all present or future claims or demands, and any and all damages, losses, injuries, liabilities, causes of actions (including, without limitation, causes of action in tort) costs and expenses (including, without limitation fines, penalties and judgments, and attorneys' fees) of any and every kind or character, known or unknown (collectively, **"Losses"**), which Port or County might have asserted or alleged against BNSF Parties arising from or in any way related to the Condition of the Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any Hazardous Substances in, on or under the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) Losses for injury or death of any

person, and (c) Losses arising under any Environmental Law enacted after transfer. The term "**Environmental Law**" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, the Model Toxics Control Act, the Water Pollution Control Act, laws concerning above ground or underground storage tanks, and any similar or comparable state or local law. The term "**Hazardous Substance**" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation petroleum oil and any of its fractions.

BNSF, Port and County acknowledge that the compensation to be paid to BNSF for the Property reflects that the Property is being conveyed subject to the provisions of this Section 6 which provisions shall be included in the deed and which shall be covenants running with the Land.

Section 7. Environmental Obligations.

(a) Consistent with Section 4.2 of this Agreement, if, prior to the expiration of the Review Period, the Port or County notifies BNSF in writing of an existing condition affecting the Property (an "**Identified Condition**") that is unacceptable to the Port or County, as determined by the Port and County in their respective sole and absolute discretion, and BNSF does not verify in writing by the earlier of: (i) fifteen (15) business days thereafter or the end of the Review Period, that such Condition is a condition that BNSF is obligated to Cure in a manner acceptable to the identifying Party pursuant to this Section 7, then the Port or County may terminate this Agreement and the South Agreement together, by written notice to BNSF in accordance with the provisions of Section 4.2 of this Agreement. If the Port or County timely notifies BNSF in writing of an Identified Condition, the Port, County and BNSF shall negotiate diligently and in good faith to reach agreement on Curing such condition. If the portion of the Property affected by an Identified Condition can be excluded from the sale without materially interfering with Port's and County's future use of the Property, as determined by the Port and County (as applicable) in their respective sole and absolute discretion, then BNSF may affect Cure prior to Closing by excluding such affected portion of the Property without any price adjustment and to the extent so excluded BNSF shall have satisfied its obligations under this Agreement to Cure the portion of the Property so excluded, provided, however, that any such Cure by exclusion must first be agreed to in writing by the Port (and County, if it relates to the Railbanked Portion.) If Port and County do not terminate this Agreement under Sections 4.2 and 7(a) and proceed to Closing, they shall not be deemed to have waived or released BNSF from any obligations to Cure set forth in Section 7(c), below.

(b) BNSF shall be responsible to investigate, remediate, respond to or otherwise cure (collectively, "**Cure**") as and when required by and in accordance with Environmental Laws any Identified Condition that concerns a release of Hazardous Substances on the Property occurring prior to the Closing or a violation of Environmental Laws concerning the Property occurring prior to the Closing to the extent that BNSF has agreed to Cure, and to the standards that BNSF has agreed to satisfy, in writing prior to the expiration of the Review Period. Notwithstanding the preceding sentence, BNSF shall not be responsible to Cure any such Identified Conditions to the extent Port or County or their respective agents, or contractors materially exacerbate such Identified Condition during construction performed by or for Port or County, excluding superficial or *de minimis* activity performed by Port or County. Further, BNSF shall not be responsible to Cure any Identified Condition that was not caused by BNSF or its agents, contractors or invitees. Port and County shall cooperate with BNSF in its efforts to Cure any Identified Condition concerning a release of Hazardous Substances on the Property.

(c) (i) For Hazardous Substances released on the Property that BNSF has not agreed to

Cure prior to Closing, whether or not BNSF has been notified under Section 7 (a) that such releases are an Identified Condition, BNSF shall pay to the Port or County the costs to investigate, remediate, respond to or otherwise cure (collectively "**Remediate**" or "**Remediation**") any such Hazardous Substance releases, or any violation of Environmental Laws prior to Closing, to the extent occurring as a result of the operations of BNSF or its corporate predecessors, or the agents, employees, invitees or contractors of BNSF or its corporate predecessors. BNSF shall pay to the Port or County such costs to Remediate as and when required by and in accordance with Environmental Laws to standards for the Property that the applicable regulatory agency would apply had the Property continued to be used as a freight railroad, and to standards for other affected properties that the applicable regulatory agency would apply for such properties. BNSF shall not be responsible for (1) any costs of Remediation to the extent the Port or County or their respective agents, contractors or invitees materially exacerbate the released Hazardous Substances during construction performed by or for Port or County (excluding superficial or *de minimis* activity performed by Port or County), or (2) any duplication of efforts by County or Port or their respective agents, contractors or invitees.

(ii) As among BNSF, Port and County, any Remediation for which this Section 7(c) applies would be carried out by the Port or County. BNSF shall cooperate with such Remediation.

(iii) The obligations of BNSF under this Section 7(c) apply only to Remediation ordered or approved by the applicable regulatory agency, provided that for Remediation approved by the applicable regulatory agency BNSF shall have agreed in writing to the Remediation prior to such approval, which agreement by BNSF shall not be unreasonably withheld, conditioned or delayed. The obligations of BNSF, Port and County under this Section 7(c) also apply regardless of which entity is issued an order by the applicable regulatory agency.

(d) Other than BNSF's obligations under this Section 7, as among BNSF, Port and County, Port and County will be responsible for the all other costs of Remediation of Hazardous Substances released on or from the Property or violations of Environmental Laws.

(e) The Section 7 obligations running from BNSF to the Port and County, and the Section 7 rights running to BNSF from the Port and the County, will be allocated as between the Port and County in the manner separately agreed to by the Port and the County.

(f) The provisions of this Section 7 shall be included in the Deed and shall run with the land.

Railbanking Requirements in Event of Abandonment. If the holder of the reserved freight easement or its successor, assignee or designee or other entity carrying out common carrier freight service on the Property (each an "Abandonment Applicant") elects to seek authority from the Surface Transportation Board or any successor agency to abandon or discontinue its freight common carrier obligation over some or all of the Property, then such Abandonment Applicant shall consent to a request by any or each of County, the Port, the Central Puget Sound Regional Transit Authority or the successor or designee of any of them (each a "Trail Use Applicant") for the implementation of interim trail use in accordance with Section 8(d) of the National Trails System Act, codified at 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29, as such provisions may be amended or interpreted by binding judicial or administrative authority ("Railbanking Laws"), provided the Trail Use Applicant meets all requirements of the Railbanking Laws, including that the Trail Use Applicant agrees to a trail use agreement as required by the Railbanking Laws. The Abandonment Applicant shall cooperate with any or each Trail Use Applicant in any application for authority to implement interim trail use over all or any portion of the Property on which the Abandonment Applicant seeks authority to abandon or discontinue its freight common carrier obligation. If the holder of the reserved freight easement or its successor, assignee or designee or other entity carrying out common carrier freight service on the Property ceases operations but fails within a reasonable

period of time to (a) seek abandonment authority, and (b) respond to inquiries from any potential Trail Use Applicant as to the status of its operations, any Trail Use Applicant may elect to seek authority from the Surface Transportation Board or any successor agency for a third-party abandonment and interim trail use over some or all of the Property on which operations have ceased. The holder of the freight easement or its successor, assignee or designee or other entity carrying out common carrier freight service on the Property shall not oppose any such action by a Trail Use Applicant if the holder has ceased operations.

EXHIBIT B

AFTER RECORDING RETURN TO:

Davis Wright Tremaine LLP
1201 Third Avenue, Suite 2200
Seattle, Washington 98101-3045
Attn: James A. Greenfield

200912210440 14 PGS
12/21/2009 2:41pm \$75.00
SNOHOMISH COUNTY, WASHINGTON

PNWT W-20611-9

MEMORANDUM OF OPERATION AND MAINTENANCE AGREEMENT

Grantor: Port of Seattle

Grantee: GNP Rly Inc.

Said document(s) were filed for record by Pacific N.W. Title as accommodation only. It has not been examined as to proper execution or as to its effect upon title.

Legal Description: See Exhibit A attached hereto and incorporated herein (the "Property"). Complete legal descriptions are at Exhibit A (page 5) of document.

Abbreviated Legal: 000 000 000 001 00

SW1/4 18-28-6
Lot 4 and 5 Block 2 Snohomish City Eastern Part Vol. 1 page 7
Govt Lots 1 and 2, and the NW 1/4 of 19-28-6
NE and SE 24-28-5
NE 25-28-5
Govt 1,2,3,5, and 6 of 30-28-6
Govt 3,4,8 and SW1/4 and NW1/4 31-28-6
Pnt Lot 139 Cathcart 9X39
Gvt 4,5,6,7 of 6-27-6
Gvt 1,2,3,4, and the SW 1/4 of 7-27-6
Gvt 2,3,4 and NW 1/4 of 18-27-6
Gvt 1,2 of 19-27-6
NE of 12-27-5
NE, SW, SE of 24-27-5
Gvt 4 of 31-27-5
NW, SW of 25-27-5
NE, NW, SW of 26-27-5
NW of 35-27-5
NE, SE, SW of 34-27-5
In Snohomish County

MEMORANDUM OF OPERATION AND MAINTENANCE AGREEMENT

THIS MEMORANDUM OF Operation and Maintenance Agreement (this "**Memorandum of Operation and Maintenance Agreement**") is made effective as of this 12 day of December, 2009 (the "**Effective Date**") by and among PORT OF SEATTLE a Washington State municipal corporation (the "**Grantor**") and GNP Rly Inc, a Washington corporation (the "**Grantee**." Each party to this Agreement is referred to herein as a "**Party**" and collectively as the "**Parties**."

Grantor is the sole owner of that certain real property located in King and Snohomish Counties, Washington, more particularly described in Exhibit A (the "**Grantor's Property**"), which is attached and incorporated into this Memorandum of Operation and Maintenance Agreement by this reference. Grantor has granted to Grantee, its successors and assigns, certain rights to operate and maintain a railroad upon Grantor's Property (the "O&M Agreement Rights" or the "Rights"), by the mutual execution, acknowledgment, and delivery of that certain unrecorded Operation and Maintenance Agreement by and between the Parties, dated effective as of the 17th day of December, 2009 (the "**O&M Agreement**"), all of the terms and conditions of which are incorporated here as though set forth in full. The O&M Agreement shall bind the Parties' successors, beneficiaries and assigns, until termination of the O&M Agreement, at which time the Parties shall execute and record a document releasing the Parties from all obligations under the O&M Agreement.

Grantor and Grantee have entered into this Memorandum of Operation and Maintenance Agreement in order that third parties may have notice of the existence of the O&M Agreement. This Memorandum of Operation and Maintenance Agreement is not a complete summary of the O&M Agreement. This Memorandum of Operation and Maintenance Agreement is not intended to amend, modify, or otherwise change the terms and conditions of the O&M Agreement. Provisions in this Memorandum of Operation and Maintenance Agreement shall not be used in interpreting the provisions of the O&M Agreement. In the event of a conflict between this Memorandum of Operation and Maintenance Agreement and the O&M Agreement, the O&M Agreement shall control.

For additional information about the O&M Agreement, contact the following:

GNP Rly. Inc.
403 Garfield Street #20
Tacoma, WA 98444
Attention: Thomas Payne
Telephone No. 253-459-9702

Port of Seattle
Real Estate Division
P.O. Box 1209
Seattle, WA 98111
Telephone No. 206-787-3722

PORT OF SEATTLE
a Washington municipal corporation

By: T. Yoshitani
Name: Tay Yoshitani
Title: Chief Executive Officer

GNP RLY. INC.
a Washington corporation

By: Thomas Payne Chairman C.O.O.
Name: Thomas Payne
Title: Chairman, C.O.O.

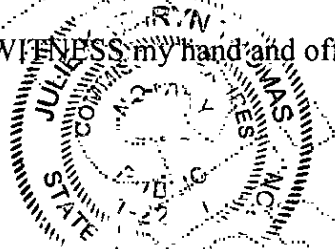
STATE OF WASHINGTON)

) ss.

COUNTY OF King)

On Dec. 18, 2009, before me, a Notary Public in and for said County and State, personally appeared Jay Yashitani, of the Port of Seattle, a Washington municipal corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



Julie Kathryn Thomas
Notary Public

(SEAL)

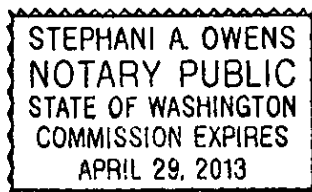
STATE OF WASHINGTON)

) ss.

COUNTY OF King)

On 12-18, 2009, before me, a Notary Public in and for said County and State, personally appeared Thomas Payne, of GNP Rly. Inc., a Washington corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



Stephani A. Owens
Notary Public

(SEAL)

**EXHIBIT A TO MEMORANDUM OF OPERATION AND MAINTENANCE
AGREEMENT**

Legal Description of Grantor's Property

All that portion of BNSF Railway Company's (formerly Northern Pacific Railway Company) Snohomish (MP 38.25) to Woodinville (MP 23.8), Washington Branch Line right of way, varying in width on each side of said Railway Company's Main Track centerline, as now located and constructed upon, over and across Snohomish County and King County, Washington, more particularly described as follows, to-wit:

SNOHOMISH COUNTY

That portion of that certain 60.0 foot wide Branch Line right of way being 30.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across State Street, as said street is shown on plat of Snohomish City Eastern Part, recorded as Instrument No. 187204125001 in Book 1, Page 7, records of the Snohomish County, Washington Auditor, lying southerly of the Easterly prolongation of the centerline of vacated Commercial Street, as said Commercial Street is shown on said plat; also

That portion of the Southerly half of vacated Commercial Street as said street is shown on the plat of Snohomish City Eastern Part, recorded as Instrument No. 187204125001 in Book 1, Page 7, records of the Snohomish County, Washington, vacated by ordinance No. 354 of the City of Snohomish, State of Washington, passed May 16, 1911, described as follows:

Beginning at the northeast corner of Lot 5, Block 2 of said plat of Snohomish City Eastern Part; thence Westerly, along the northerly line of said Lot 5, a distance of 20 feet, more or less, to a point 50 feet distant westerly, when measured at right angles from the centerline of State Street, as said State Street is shown on said plat; thence Northerly, along a line 50 feet westerly from the center line of said State Street, 30 feet, more or less to the centerline of said Commercial Street; thence Easterly, along said centerline of Commercial Street, 20 feet, more or less to the northerly prolongation of the east line of said Lot 5, thence Southerly, along said northerly prolongation, 30 feet, more or less, to Point of Beginning; also,

Lots 4 and 5, of Block 2 as shown on plat of Snohomish City Eastern Part, recorded as Instrument No. 187204125001 in Book 1, Page 7, records of the Snohomish County, Washington; also,

That portion of that certain 50.0 foot wide Branch Line right of way being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 4, Section 18, Township 28 North, Range 6 East, W. M., bounded Northeasterly by the Southwesterly Bank of the Snohomish River, an bounded Southwesterly by a line parallel with and distant 50.0 feet Northeasterly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed, together with all right, title and interest if any, to

accommodate said railway company's facilities and operations over and across the Snohomish River, also

That portion of that certain 50.0 foot wide Branch Line right of way being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 4, Section 18, Township 28 North, Range 6 East, W. M., bounded Northeasterly by a line parallel with and distant 150.0 feet Southwesterly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed, and bounded Southerly by the Southerly line of said Government Lot 4; also

A triangular shaped tract of land being that portion of Government Lot 4, Section 18, Township 28 North, Range 6 East, W. M., bounded Northeasterly by a line parallel with and distant 150.0 feet Southwesterly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed, bounded Northwesterly by a line parallel with and distant 25 feet Easterly from, measured at right angles to said Railway Company's Branch Line right of way Main Track centerline as originally located and constructed and bounded Southerly by the Southerly line of said Government Lot 4; also

That certain 0.11 acre strip of land described in deed dated September 9, 1903 from J. H. Shadinger and Hattie E. Shadinger to Northern Pacific Railway Company recorded September 19 in Book 80, Page 296, records of Snohomish County, Washington, said 0.11 acre strip of land being described in said deed for reference as follows:

"A strip of land eighty (80) feet in width across that certain thirty-three (33) foot strip of land in Lot four (4), Section eighteen (18), Township twenty-eight (28) north, Range six (6) east, W.M., which lies immediately south of, parallel with and contiguous to the right of way of the Great Northern Railway Company across said subdivision; said eighty (80) foot strip of land having for its east and west boundaries two lines that are parallel with and respectively distant twenty-six (26) feet on the northeasterly side and fifty-four (54) feet on the southwesterly side of the center line of the proposed track which is to connect the Great Northern Railway with the Northern Pacific Railway as the same is located, staked and constructed over and across said subdivision; containing 0.11 acres, more or less."; also,

That certain 1.94 acre strip of land described in deed dated September 9, 1903 from Kate G. Ford, D. A. Ford, Ruth S. Ford and D. A. Ford as sole executor to Northern Pacific Railway Company recorded September 19 in Book 80, Page 298, records of Snohomish County, Washington, said 1.94 acre strip of land being described in said deed for reference as follows:

"All that portion of Lot four (4), Section eighteen (18) and of Lot one (1) (or the northwest quarter of the northwest quarter) of Section nineteen (19), Township twenty-eight (28) north, Range six (6) east, W.M., lying westerly of the Northern Pacific Railway Company's right of way and southerly of a line drawn parallel with and thirty-three (33) feet distant southerly from

the south line of the Great Northern Railway Company's right of way and between lines drawn parallel with and respectively distant twenty-six (26) feet easterly from and fifty-four (54) feet westerly from the center line of the proposed track which is to connect the Northern Pacific Railway with the Great Northern Railway as the same is now located, staked out and to be constructed over and across said premises; said strip of land containing 1.94 acres, more or less.", also;

That certain .08 acre strip of land described in deed dated April 25, 1908 from Robert Henry and Margaret R. Henry to Northern Pacific Railway Company recorded June 1, 1908 in Book 110 of Deeds, Page 509, records of the County Auditor, Snohomish County, Washington, said .08 acre strip of land being described in said deed for reference as follows:

"A strip of land thirty (30) feet wide described as follows: Beginning at a point on the section line between Sections 18 and 19, Township 28 North, Range 6 East, Willamette Meridian, fifty-five (55) feet distant measured at right angles from the center line of the main track of the said Railway Company as the same is now located, constructed, maintained and operated through said sections; thence northeasterly on a line parallel with and fifty-five (55) feet distant from said center line one hundred ten (110) feet, more or less, to the south line of the Tacoma Power Company's right of way; thence southeasterly along the south line of said Tacoma Power Company's right of way thirty (30) feet to the westerly line of the present right of way of said Northern Pacific Railway Company, which line at that point is twenty-five (25) feet from the center line of the main track of said Railway Company; thence southwesterly along said westerly line of the right of way one hundred ten (110) feet, more or less, to the point where said right of way widens to fifty (50) feet on each side of said center line; thence westerly twenty-five (25) feet to point of intersection with the above described section line; thence west along said section line five (5) feet, more or less, to place of beginning, said strip being situated in Lot four (4) Section eighteen (18) and Lot one (1) Section nineteen (19) all in Township twenty-eight (28) North, Range six (6) East, Willamette Meridian and containing eight hundredths (.08) of an acre, more or less."; also,

That portion of said Railway Company's property in Government Lot 4, Section 18, Township 28 North, Range 6 East, W.M., Snohomish County, Washington, bounded Northeasterly and Southwesterly by two lines drawn parallel with and distant Southwesterly 150.0 feet and 183.0 feet, respectively, from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed and bounded Southeasterly and Northwesterly by two lines drawn parallel with and distant Northwesterly 25.0 feet and 50.0 feet, respectively, from, measured at right angles to said Railway Company's Branch Line Main Track centerline as now located and constructed; also,

That portion of that certain 100.0 foot wide Branch Line right of way, in the Town of Bromart, Snohomish County, Washington, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Lots 1 and 2, Section 19, Township 28 North, Range 6 East, W. M., Snohomish County, Washington, bounded Northerly by the North line of said Section 19, and bounded Westerly by the West line of said Section 19; also,

That portion of said Railway Company's property in Lots 1 and 2, Section 19, Township 28 North, Range 6 East, W. M., Snohomish County, Washington, bounded as follows: Westerly by a line parallel with and distant 50.0 feet Easterly from, measured at right angles to said Railway Company's Branch Line Main Track centerline as now located and constructed; Northerly by the North line of said Section 19 and Easterly by the following described line:

Beginning at a point on a line parallel with and distant 50.0 feet Southerly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline, as originally located and constructed, opposite Station 512+68.45, said point of beginning being the point of a curve to the left having a radius of 621.20 feet; thence westerly, along the arc of said curve to the left and consuming a central angle of $90^{\circ}57'06''$, an arc distance of 986.10 feet to the point of tangency of said curve, said point of tangency being 125 feet easterly, when measured at right angles from Station 1963+97.51 on said Railway Company's Branch Line Main Track centerline; thence southerly, along a line drawn parallel and/or concentric with and 125 feet easterly, when measured at right angles and/or radially, from said Branch Line Main Track centerline, to a point opposite Station 1956+00 on said Railway Company's Branch Line Main Track centerline; thence westerly, along a line drawn radially with the centerline of said Railway Company's Branch Line Main Track centerline, a distance of 25 feet; thence southerly, along a line drawn concentric with and 100 feet easterly, when measured radially, from the centerline of said Railway Company's Branch Line Main Track centerline, to a point opposite Station 1953+00 on the centerline of said Railway Company's Branch Line Main Track centerline; thence westerly along a line drawn radially with the centerline of said Railway Company's Branch Line Main Track centerline, a distance of 25 feet; thence southerly, along a line drawn concentric with and 75 feet easterly, when measured radially from said Railway Company's Branch Line Main Track centerline to the west line of said Section 19, also being the terminus of the herein described line.

EXCEPTING THEREFROM, a strip of land 30 feet wide, the center line of which is 435 feet north from and parallel with the East and West centerline of said Section 19, extending from the west line of said Section 19 to the East boundary of said hereinabove described tract; **ALSO EXCEPTING THEREFROM**, that portion of said hereinabove described tract lying northerly of a line parallel with and distant 150.0 feet Southerly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline, as originally located and constructed, also;

That portion of that certain 100.0 foot wide Branch Line right of way, in the Town of Bromart, Snohomish County, Washington, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the E $\frac{1}{2}$ E $\frac{1}{2}$ Section 24, the E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 25, all in Township 28 North, Range 5 East, W. M., bounded Northerly by the East line of said E $\frac{1}{2}$ E $\frac{1}{2}$ Section 24, and bounded Southerly by the East line of said E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 25; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lots 1, 2, 3, 5, 6, of Section 30, Township 28 North, Range 6 East, W. M., bounded

Westerly by the West lines of said Lots 1 and 2 and bounded Southerly by the South line of said Lot 5; also,

That portion of that certain 110.0 foot wide Branch Line right of way, being 60.0 feet Westerly and 50.0 feet Easterly of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 8 of Section 31, Township 28 North, Range 6 East, W. M., bounded Northerly and Southerly by the North and South lines of said Lot 8; also,

That portion of that certain 200.0 foot wide Branch Line right of way, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 3, the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, Township 28 North, Range 6 East, W. M., bounded Northerly by the North line of said SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 31, and bounded Southerly by the South line of said Government Lot 3 and its easterly prolongation; also,

That certain 2.0 acre tract of land described in deed dated April 13, 1918 from John S. Eby to the Northern Pacific Railway Company, recorded April 20, 1918 in Volume 180 of Deeds, Page 451, records of Snohomish County, Washington, said tract being described in said deed for reference as follows:

"That property of the grantor (being the north nine hundred forty-five and five tenths (945.5) feet, more or less, of the south eleven hundred forty-three and five tenths (1143.5) feet of the north-half of the southwest quarter (N $\frac{1}{2}$ of SW $\frac{1}{4}$) of section thirty-one (31) in Township twenty-eight (28) north of range six (6) east of the Willamette Meridian, west of the present right of way of said Railway Company lying between lines parallel with and distant respectively one hundred (100) and one hundred fifty (150) feet westerly from the center line of the present main track of said Railway Company, as the same is now constructed and operated over and across said section; also that portion of said N $\frac{1}{2}$ of SW $\frac{1}{4}$ lying between lines parallel with and distant respectively one hundred fifty (150) and two hundred (200) feet westerly from said above named main track center line and between a line parallel with and distant one hundred ninety-eight (198) feet northerly from the south line of said government subdivision and a line drawn at right angles to said main track center line at a point distant twenty-one hundred thirty-four and eight tenths (2134.8) feet northerly from its point intersection with the south line of said section 31, containing in all two (2) acres, more or less."; also,

That certain 0.35 acre tract of land described in deed dated March 25, 1918 from John Grinier and Alice Grinier to the Northern Pacific Railway Company, recorded April 10, 1918 in Volume 180 of Deeds, Page 401, records of Snohomish County, Washington, said tract being described in said deed for reference as follows:

"A strip of land of the Westerly side of and adjacent to the present two hundred (200) foot right of way of said Railway Company in the south six (6) acres (or the south one hundred ninety-eight (198) feet more or less, of the north-half of the southwest quarter (N $\frac{1}{2}$ of SW $\frac{1}{4}$) of section thirty-one (31) in Township twenty-eight (28) north of range six (6) east of the Willamette Meridian, said strip of land being more particularly described as follows:

"Beginning at a point on the south line of said N½ of SW ¼, one hundred (100) feet distant westerly, measured at right angles, from the present main track of said Railway Company, as the same is now, constructed and operated over and across said section; thence northerly on a line parallel with and one hundred (100) feet distant westerly from said center line to the north line of the property of said grantors (being the north line of the south 198 feet, more or less of the above named government subdivision); thence west along said north line to a point two hundred (200) feet distant westerly, measured at right angles, from said main track center line; thence southeasterly in a straight line to a point on the south line of said above named government subdivision fifty-five (55) feet west of the point of beginning; thence east to the point of beginning, containing thirty-five hundredths (35/100) acres, more or less."; also,

That certain tract of land described in deed dated December 15, 1937 from Ella L. Moulton to the Northern Pacific Railway Company recorded February 19, 1938 in Volume 238 of Deeds, Page 102, records of Snohomish County, Washington, said tract of land being described in said deed for reference as follows:

"That portion of Tract No. 139 as shown on the official plat of CATHCART on file and of record in the office of the Auditor of said County situate within the south half of southwest quarter (S½ of SW¼) of section thirty-one (31) in township twenty-eight (28) north of range six (6) east of the Willamette Meridian, lying easterly of a line parallel with and distant fifty (50) feet westerly measured at right angles, from the center line of the present main track of the Northern Pacific Railway Company as the same is now constructed and operated over and across said section thirty-one."; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 4 in Section 31, Township 28 North, Range 6 East, W. M., Government Lots 4, 5, 6 and 7 in Section 6, Government Lots 1, 2, 3, 4 and the SE¼SW¼ Section 7, Government Lots 2, 3, 4 and the E½NW¼ Section 18, Government Lots 1 and 2 Section 19, all in Township 27 North, Range 6 East, W. M., the E½E½NE¼ Section 12, and the SE¼NE¼ and the NE¼SE¼ Section 24, all in Township 27 North, Range 5 East, W. M., bounded Northerly by the North line of said Government Lot 4 in Section 31, and bounded Southerly the West line of said NE¼SE¼ Section 24; also

That portion of that certain 200.0 foot wide Maltby Station Ground property, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the W½SE¼ Section 24, Township 27 North, Range 5 East, W. M., bounded Easterly and Westerly by the East and West lines of said W½SE¼ Section 24, **EXCEPTING THEREFROM**, that portion of said 200.0 foot wide Station Ground property lying Northwesterly of a line concentric with and distant 25.0 feet Northwesterly from, measured radially to said Railway Company's Main Track centerline as now located and constructed; also

That portion of that certain 100.0 foot wide Maltby Station Ground property, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the E½SW¼ Section 24, Township 27 North, Range 5 East, W. M., bounded Northerly by

the East line of said SW $\frac{1}{4}$ Section 24 and bounded Southerly by the South Line of said SW $\frac{1}{4}$ Section 24, **EXCEPTING THEREFROM**, that portion lying Northwesterly of a line concentric with and distant 25.0 feet Northwesterly from, measured radially to said Railway Company's Main Track centerline as originally located and constructed, bounded Northeasterly by the East line of said SW $\frac{1}{4}$ Section 24, and bounded Southwesterly by the Easterly edge of the travelway of the Street connecting 91st Avenue SE with Yew Way in the City of Maltby, Washington, as now located and constructed in a generally Southerly direction from 91st Avenue SE, and about 100 feet Southwesterly of the North-South quarter line of said Section 24, as measured along said Main Track centerline; also,

That portion of that certain 200.0 foot wide Maltby Station Ground property, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the NW $\frac{1}{4}$ Section 25, Township 27 North, Range 5 East, W. M., bounded Northerly and Southerly by the North and South lines of said NW $\frac{1}{4}$ Section 25; also

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25, Township 27 North, Range 5 East, W. M., bounded Northerly and Westerly by the North and West lines of said NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25; also,

That portion of that certain 200.0 foot wide Branch Line right of way, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25, the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and the NE $\frac{1}{4}$ Section 26, all in Township 27 North, Range 5 East, W. M., bounded on the East by the East line of said NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25, and bounded on the West by the West line of said NE $\frac{1}{4}$ Section 26; also

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 26, Township 27 North, Range 5 East, W. M., bounded Easterly by the East line of said SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 26, and bounded Westerly by the West line of said NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 26; also,

That portion of that certain 200.0 foot wide Branch Line right of way, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 26, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, all in Township 27 North, Range 5 East, W. M., bounded on the East by the East line of said W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 26, and bounded on the South by the South line of said NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, **EXCEPTING THEREFROM**, that portion lying Westerly of a line parallel and/or concentric with and distant 50.0 feet Westerly from, measured at right angles and/or radially to said Railway Company's Main Track centerline as originally located and constructed, bounded on the North by the North line of said Section 35, and bounded on the South by a line radial to said Main Track centerline at a point 530.0 feet South of the North line of said Section 35, as measured along said Main Track centerline; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across

the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, all in Township 27 North, Range 5 East, W. M., bounded on the North by the North line of said SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, and bounded on the South by the South line of said NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34; also,

That portion of that certain 50.0 foot wide Branch Line right of way, being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, Township 27 North, Range 5 East, W. M., bounded on the North by the North line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, and bounded on the South by a line radial to said Railway Company's Main Track centerline, as originally located and constructed, at a point distant 600 feet Southwesterly of said North line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, as measured along said Main Track centerline; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the S $\frac{1}{2}$ SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 34, Township 27 North, Range 5 East, W. M., bounded on the North by a line radial to said Railway Company's Main Track centerline, as originally located and constructed, at a point distant 600 feet Southwesterly of said North line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, as measured along said Main Track centerline, and bounded on the South by the South line of said Section 34, said line also being the South line of Snohomish County Washington.

KING COUNTY

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across the Lots 2, 3, the S $\frac{1}{2}$ N $\frac{1}{2}$, and the E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 3, the NW $\frac{1}{4}$ Section 10, all in Township 26 North, Range 5 East, W. M., bounded on the North by the North line of said Section 3, said line also being the North line of King County, Washington, and bounded on the West by the West line of said NW $\frac{1}{4}$ Section 10, **EXCEPTING THEREFROM**, that portion lying Easterly of a line parallel with and distant 20 feet Easterly from, measured at right angles to said Railway Company's Main Track centerline as now located and constructed; bounded on the North by the South line of 8th Street, according to the recorded plat of Bear Creek Addition to Day City, Washington, and bounded on the South by a line perpendicular to said Railway Company's Main Track centerline distant 450.0 feet Southerly from the North line of said E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 3, as measured along said Main Track centerline; also,

A 100 foot wide strip of land being that portion of that certain 100.0 foot wide strip of land described in deed dated June 8, 1887 from Ira Woodin and Susan Woodin to Seattle and West Coast Railway, recorded June 14, 1887 in Book 42 of Deeds, Page 410, records of King County, Washington, that portion of that certain 100.0 foot wide strip of land described in deed dated July 26, 1890 from Ira Woodin and Susan Woodin to Seattle and West Coast Railway, recorded November 10, 1890 in Book 112 of Deeds, Page 556, records of King County, Washington, and that certain 100.0 foot wide strip of land described in deed dated June 14, 1887 from Mary B.

Jaderholm to Seattle and West Coast Railway, recorded June 14, 1887 in Book 41 of Deeds, Page 385, records of King County, Washington, lying in Section 9, Township 26 North, Range 5 East, W. M., bounded on the East by the East line of said Section 9, and bounded on the West by a line drawn radially to said Railway Company's Main Track centerline, distant 1867.0 feet Easterly of the West line of said Section 9, also being the Easterly boundary of that certain Tract VIII described in deed dated December 19, 1985 from Burlington Northern Railroad Company to King County, recorded in the records of King County, Washington as Instrument No. 198512191094, **EXCEPTING THEREFROM**, that certain tract of land described in Deed dated June 29, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded May 22, 2000 as Document No. 20000522001158, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that portion of that certain tract of land described in deed dated November 17, 1998 from The Burlington Northern and Santa Fe Railway Company to Tjossem Properties IV, LLC and Tjossem Properties V, LLC, recorded December 23, 1998 as Instrument No. 9812240021, which lies within said 100.0 foot strip of land; also,

That certain 0.32 acre tract of land described in deed dated July 24, 1903 from Frank A. Woodin and Anna Woodin to Northern Pacific Railway Company recorded July 30, 1903 in Book 370 of Deeds, Page 89, records of King County Washington, said 0.32 acre tract being described in said deed for reference as follows:

"All that portion of the Southeast quarter of the Northeast quarter (SE/4 of NE/4) of Section Nine (9), Township Twenty-six (26) North, Range Five (5) East, W.M., described by metes and bounds as follows: Beginning at the point where the southeasterly line of the present right of way of the Northern Pacific Railway intersects the south line of the said Southeast quarter of the Northeast quarter (SE/4 of NE/4) and running thence east along the south line of said Southeast quarter of the Northeast quarter (SE/4 of NE/4) a distance of 190 feet, more or less, to a point which is 50 feet distant from, when measured at right angles to, the center line of the proposed Seattle Belt Line Branch of the Northern Pacific Railway as the same is now located, staked out and to be constructed over and across said Government subdivision; thence running northeasterly and parallel with and 50 feet distant from said center line of the Seattle Belt Line Branch a distance of 400 feet, more or less, to a point in the southeasterly line of the present right of way of the Northern Pacific Railway, thence southwesterly along said right of way line to point of beginning; containing 0.32 acres, more or less."

A 100 foot wide strip of land lying in the N/2 of the SE/4 of Section 9, Township 26 North, Range 5 East, W. M., being that certain 1.91 acre tract of land described in deed dated May 19, 1903 from Mary B. Hansen and Anders Hansen to Northern Pacific Railway Company recorded May 28, 1903 in Volume 361 of Deeds, Page 48, records of King County, Washington and that certain 0.92 acre tract of land described in deed dated July 1, 1903 from A. J. Milton and Anna Milton to Northern Pacific Railway Company recorded July 10, 1903 in Volume 363 of Deeds, Page 211, records of records of King County, Washington, said 100 foot wide strip being described as follows:

That certain 0.03 acre triangular tract of land described in deed dated June 4, 1923 from Mary B.

Hansen and A. Hansen to Northern Pacific Railway Company recorded June 8, 1923 in Volume 1192 of Deeds, Page 539, records of King County, Washington, said 0.03 acre tract being described in said deed for reference as follows:

"That certain triangular portion of the northeast quarter of southeast quarter (NE¼ of SE¼) of section nine (9) in township twenty-six (26) north of range five (5) east of the Willamette Meridian, lying easterly of and between the rights of way of the Northern Pacific Railway Company for its Snoqualmie Branch and its Lake Washington Belt Line and westerly of a line parallel with and distant twenty-five (25) feet easterly, measured at right angles from the center line of the proposed wye track connection between said branch lines as the same is now located, staked out and to be constructed over and across said premises, containing three hundredths (0.03) acres, more or less," also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across that portion of the N¼SE¼ of Section 9, Township 26 North, Range 5 East, W. M., King County, Washington lying Northerly of the Southwesterly boundary of that certain 100 foot wide tract of land described in deed dated June 14, 1887 from Mary B. Jaderholm to Seattle and West Coast Railway, recorded June 14, 1887 in Volume 41 of Deeds, Page 385, records of said County.

EXHIBIT C

**OPERATIONS AND MAINTENANCE AGREEMENT
BETWEEN
PORT OF SEATTLE
AND
GNP RLY. INC.**

This Operations and Maintenance Agreement (the "Agreement") is entered into as of the 18 day of DECEMBER, 2009 ("Execution Date"), between the PORT OF SEATTLE, a Washington Municipal Corporation ("Port"), and GNP RLY. INC., a Washington corporation ("TPO").

Recitals

A. Pursuant to the Purchase and Sale Agreement between Port and BNSF Railway Company, a Delaware corporation ("BNSF"), dated May 12, 2008, as amended; Port acquired certain rights-of-way from BNSF ("Port Property") and BNSF reserved for itself certain freight easement rights under the Quitclaim Deed ("Deed") to the Port; and

B. BNSF has conveyed its freight easement rights to TPO by quit claim deed dated of even date herewith ("Easement"). The Easement gives TPO the right to operate on a portion of the Port Property (as defined in Section 1.4 below, the "Corridor"), and

C. TPO intends to use the Corridor to provide Freight Rail Service and Excursion Rail Service (defined below); and

D. Pursuant to a Railroad Right-of-Way License Agreement ("License") between Port dated of even date herewith, attached hereto and incorporated herein as **Exhibit A**, TPO intends to use the Excursion Spur (as defined in the License) to provide Excursion Rail Service on the Excursion Spur, which is "railbanked" as set forth more fully in Recital D of the License.

E. The parties desire to set forth in this Agreement their respective rights and obligations with respect to TPO's use of the Corridor and adjacent Port Property for Freight Rail Service and related activities.

F. The TPO has been qualified by the Surface Transportation Board ("STB") and is willing to provide railroad freight transportation service to the public upon the terms and conditions contained herein.

G. The TPO intends to work in partnership with local governments, economic development authorities, shippers and Class 1 railroads to develop innovative and efficient operating and shipping methods and improvements in order to provide competitive rail service for the region's rail shippers.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

SECTION 1. Definitions.

1.1 "Additions and Alterations" means any improvements constructed by or on behalf of either party on the Corridor after the Execution Date, including, without limitation, additions, alterations and betterments of any Facilities, and any construction, reconstruction, modifications and renewals thereof or any reconstruction, modification or renewal of additional Facilities, but excluding maintenance items.

1.2 "Automatic Warning Devices" means traffic control devices at railroad-street at-grade crossings and at railroad-pedestrian at-grade crossings, including, without limitation, any combination of flashing light signals, bells, automatic gates, active advance warning devices, highway traffic signals and their associated activation and control devices, control relays and batteries, microprocessor technology, and associated electrical circuitry.

1.3 "BNSF" is defined in Recital A.

1.4 "Corridor" means the portion of rail line to which TPO acquired certain rights pursuant to the Easement, located between milepost 23.8 in Woodinville, King County, Washington to milepost 38.25 in Snohomish, Snohomish County, Washington.

1.5 "Deed" is defined in Recital A.

1.6 "Easement" is defined in Recital A.

1.7 "Environmental Laws" means any and all applicable laws, statutes, regulations, enforceable requirements, orders, decrees, judgments, injunctions, permits, approvals, authorizations, licenses, permissions or binding agreements issued, promulgated or entered into by any governmental agency having jurisdiction over the environmental condition of the Corridor, relating to the environment, to preservation or reclamation of natural resources, or to the management, release or threatened release of contaminants or noxious odors, including, without limitation, the Hazardous Materials Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and the Hazardous and Solid Waste Amendments of 1984, the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, the Clean Air Act of 1970, as amended by the Clean Air Act Amendments of 1990, the Toxic Substances Control Act of 1976, and any similar or implementing state law, and all amendments or regulations promulgated thereunder.

1.8 "Excluded Conduct" is defined in Section 7.4.

1.9 "Excursion Rail Service" means the deployment and operation of trains using the facilities for excursion passenger service and not for commuter rail passenger service or any other service.

1.10 "Execution Date" means the date on which this Agreement is executed and becomes effective.

1.11 "Facilities" means all rails, fastenings, switches, switch mechanisms and frogs with associated materials, ties, ballast, signals and communications devices (and associated equipment), Additions and Alterations, drainage facilities, Automatic Warning Devices, traction power substations, overhead catenary systems, bumpers, roadbed, embankments, bridges, trestles, culverts, buildings and any other structures or things necessary for the support thereof and, if any portion thereof is located in a thoroughfare, the term includes pavement, crossing planks and other similar materials or facilities used in lieu of pavement or other street surfacing materials at vehicular and pedestrian crossings of tracks, and any and all structures and facilities required by lawful authority in connection with the construction, renewal, maintenance and operation of any of the foregoing.

1.12 "FRA" means the Federal Railroad Administration.

1.13 "Freight Rail Service" means only (a) the common carrier freight rail operations conducted by TPO or TPO's tenants or assignees on the Corridor and (b) the head and tail operations associated therewith and conducted on the Excursion Spur in accordance with the License, and no other freight service.

1.14 "Hazardous Materials" means any material or substance: (a) the presence of which requires investigation or remediation under any Environmental Law; or (b) which is defined as a "hazardous waste," "hazardous substance," "pollutant" or "contaminant" under any Environmental Law; or (c) the presence of which on, under or over adjacent properties constitutes a trespass by the owners of the Corridor and poses a hazard to the health or safety of persons on adjacent properties; or (d) the presence of which on, under, or over the Corridor causes a nuisance on adjacent properties and poses a hazard to the health or safety of persons on adjacent properties.

1.15 "Invoice" is defined in Section 9.1.

1.16 "Loss" or "Losses" means all losses, damages, claims, demands, costs, liabilities, judgments, fines, fees (including, without limitation, reasonable attorneys' fees) and expenses (including, without limitation, costs of investigation, defense expenses at arbitration, trial or appeal and without institution of arbitration or suit, and, with respect to damage or destruction of property, cleanup, repair and replacement expenses) of any nature arising from or in connection with death of or injury to persons, including, without limitation, employees or tenants of the parties, or damage to or destruction of property, including, without limitation, property owned by either of the parties or their tenants, in connection with Freight Rail Service or Excursion Rail Service on the Corridor.

1.17 "Port" is defined in the preamble.

1.18 "Port Property" means the rights-of-way acquired by Port from BNSF under the Deed that are subject to TPO's rights under this Agreement; provided, that if Port transfers individual parcel(s) to third parties not affiliated with Port, and the transferred parcel(s) do not remain subject to this Agreement as provided in Section 12.12, such individual parcel(s) shall not be deemed "Port Property."

1.19 "Track" means any and all main track, sidings, yards, spurs and other track constructed or to be constructed upon and across the Corridor.

1.20 "TPO" is defined in the preamble.

SECTION 2. Rail Service.

2.1 TPO's Rights and Obligations.

TPO shall have the exclusive right and obligation (subject to TPO's unfettered right to abandon or discontinue Freight Rail Service) to provide, by itself and/or by or through any entity designated by TPO and approved by the Port, Freight Rail Service and/or Excursion Rail Service on and over the Corridor. TPO, and/or its designee, shall also have the right to:

a) Modify, construct, maintain, replace, remove and operate the Tracks upon and across the Corridor in order to fulfill common carrier obligations to existing and prospective shippers and receivers of freight, at the expense of entities other than Port.

b) Perform any work prescribed by any FRA inspector.

c) Use existing Tracks in the Corridor for switching cars to or from industries served by industry tracks, which use includes setting out or picking up cars ; provided, that TPO shall not transport or store on the Corridor or on Port Property any toxic inhalation hazards ("TIHs") or poison inhalation hazards ("PIHs").

d) In the event that construction of any Tracks or TPO's operations requires the construction of new Port Facilities, or modifications to, or relocations of Port's existing Facilities, such construction, modifications and/or relocations shall be at the expense of entities other than Port.

e) The design, construction, modification or removal of any Tracks and any new, modified or relocated Port Facilities necessitated thereby, shall be subject to Port's prior review and approval, which approval shall not be unreasonably withheld, conditioned or delayed.

f) Use existing Tracks in the Corridor for performing Excursion Rail Service described in Sections 1.9 and 5.1. TPO or its designee shall commence Excursion Rail Service on the Corridor no later than six (6) months after the Execution Date, unless TPO and the Port agree, in writing, to a later date.

g) The parties acknowledge that TPO intends to designate Ballard Terminal Railroad Company, LLC. ("Ballard Shortlines") as the entity that will conduct the

Freight Rail Service authorized under this Agreement. Prior to commencement of Freight Rail Service by Ballard Shortlines on the Corridor, TPO shall provide for the Port's approval a copy of the signed agreement between TPO and Ballard Shortlines for such operations. The agreement between TPO and Ballard Shortlines shall incorporate and be subject to all of the terms and provisions of this Agreement.

h) TPO acknowledges and agrees that, consistent with Section 2.2, Port may enter into agreements with one or more third parties for certain non-freight, passenger transportation uses on the Corridor (e.g., commuter rail service) during the term of this Agreement, that are not inconsistent with TPO's rights under this Agreement and do not materially interfere with TPO's right and obligation to operate Freight Rail Service on the Corridor. TPO shall cooperate with those parties authorized by the Port to ensure the accommodation of such passenger transportation uses on the Corridor.

2.2 Port's Rights and Obligations.

a) Port expressly declines to assume any obligation to provide common carrier freight rail service on the Corridor. Neither Port nor any person or entity other than TPO (or its permitted successors or assigns) shall be permitted to provide any type of freight rail service on the Corridor.

b) Port, at Port's election, may perform a semi-annual joint inspection of the Corridor by representatives of the Port upon reasonable advance notice for the first two (2) years, and annual joint inspections thereafter. Appropriate representatives from both Port and the TPO shall participate in and cooperate with the joint inspection(s) via hi-rail or other suitable means of railroad track inspection. The Port may perform more frequent inspections of the Corridor, at its election, at any time during the term of the Agreement so long as the following conditions are met: (1) Port provides advance notice to TPO in accordance with Section 6.1 e); (2) Port complies with all reasonable safety requirements of the TPO or as required by law applicable to the Corridor; (3) Port obtains the appropriate authorizations from TPO to be on the designated portions of the Corridor; (4) TPO will be allowed to participate in any inspection; and (5) the inspections are planned and coordinated with TPO to minimize any interference with TPO's operations on the Corridor. The Port may request, at its sole discretion, that the inspections be performed by an authorized FRA inspector, whose findings shall be binding on the Port and the TPO.

c) In the event the TPO fails to or is unable to perform any work it is required to perform under this Agreement, the Port may perform such work. Any such work by Port shall be performed in accordance with TPO's schedule and design, (as approved by Port under Section 2.1 above, and the reasonable documented out-of-pocket cost thereof shall be reimbursed by TPO to Port in accordance with Section .

d) Port shall have the right to contract with third parties for certain non-freight, passenger transportation uses on the Corridor (e.g., commuter rail service) during the term of this Agreement, and to grant easements, licenses or permits affecting the Corridor as long as such use, easements, licenses or permits do not interfere with or create safety hazards for TPO's continuous and uninterrupted use of the Corridor under the terms of this Agreement.

SECTION 3. Maintenance, Repair and Replacement Obligations.

3.1 General Maintenance, Repair and Replacement Obligations.

a) Except as otherwise provided in this Agreement, TPO shall provide general maintenance and maintenance of way services, including without limitation, inspection, maintenance, repair, installation, alteration and replacement (as necessary) of all Tracks and Facilities, including without limitation, Automatic Warning Devices and grade crossings (including embankments, crossing panels or planking, pavement and curbing) to the extent the same are subject to governmental requirements in connection with grade crossings, located within the Port Property, including the Corridor, in accordance with all applicable laws, rules and regulations, and in a condition reasonably suitable for TPO's intended use of the Corridor.

b) Notwithstanding the provisions of Section 3.1 above, any damage to or destruction of Facilities caused by a party or its employees, contractors, invitees or licensees shall be repaired or replaced at the sole cost of such party.

c) The TPO shall allow the Port to conduct inspections of the Corridor as provided in Section 2.2 b).

3.2 Remedies.

a) In the event that TPO, as the responsible party for maintenance, repair and replacement of any item, fails to perform its maintenance obligations under this Agreement, and such failure results in an imminent and substantial danger to human health or safety or to property, Port shall promptly notify TPO and the FRA. If TPO fails to perform its maintenance obligations, Port may perform such obligations immediately upon notifying TPO by telephone at the number set forth below. Port shall be entitled to full reimbursement from TPO within thirty (30) days after submission of a written Invoice therefor.

b) In the event that TPO or Port discovers, or receive notice of, any malfunction of, or damage to, Automatic Warning Devices, the discovering party shall promptly notify the other party by telephone at the telephone number set forth below, and TPO shall follow its usual response practices in the event of any malfunction of, or damage to, Automatic Warning Devices.

Port Duty Officer Telephone No.: _____

TPO Duty Officer Telephone No.: _____

3.3 Grade Crossing Reconstruction.

The parties acknowledge that certain maintenance procedures may cause an increase in the surface elevation of grade crossings, and that TPO may, from time to time, need to perform additional maintenance or reconstruction work in order to prevent unsafe elevation differentials between the tracks used by TPO and other tracks. TPO will be responsible for any such maintenance and reconstruction work of any such grade crossings.

SECTION 4. Construction of Additions and Alterations.

4.1 Design and Construction Standards.

The design and construction of any Additions and Alterations on the Corridor shall comply with all applicable laws, rules and regulations. The party constructing Additions and Alterations shall follow its customary safety procedures and shall use reasonable efforts to perform work on Additions and Alterations at such times and in such manner as not to materially interfere with, delay or endanger the equipment, Facilities or other facilities of the other party.

4.2 Design Review.

In the course of designing Additions and Alterations, the constructing party shall reasonably notify and consult with the other party with respect to the design and construction of the Additions and Alterations. If requested by the other party, the constructing party shall deliver to the other party for review and comment copies of each set of plans for Additions and Alterations during the planning and design process. The other party shall notify the constructing party in writing within fifteen (15) days after its receipt of the plans as to whether it wishes to comment on the plans. If so, then the other party shall have the right to provide the constructing party, within thirty (30) days after the other party's receipt of any such set of plans, written comments and suggestions regarding such plans. If the other party timely disapproves such plans, the parties shall meet within fifteen (15) days after disapproval to negotiate in good faith to develop plans acceptable to both. If the parties are unable to agree upon changes to the plans, either party may submit the matter to arbitration pursuant to . Upon completion of final plans, the constructing party shall give a copy of the final plans to the other party for review to ensure the incorporation of all agreed-upon changes to the plans.

4.3 Grade Separation Projects.

In the event of a public grade separation project, TPO shall be solely responsible for any costs assessed thereunder. If TPO determines that a proposed grade separation project is desirable and is not feasible unless TPO contributes more than the costs that would be assessed to TPO under applicable laws, then Port agrees to consider in good faith the desirability of the proposed project and whether TPO's additional contribution should be reimbursed by Port; provided, however, that Port shall have no obligation to reimburse TPO for such additional contribution except to consider it in good faith as provided above.

SECTION 5. Operations.

5.1 TPO's Operations.

TPO shall have exclusive authority to manage, direct and control all activities on the Corridor to provide Freight Rail Service, and Excursion Rail Service, including, without limitation, the operations of all trains, locomotives, rail cars and rail equipment, and the movement and speed of the same on the Corridor.

SECTION 6. Access.

6.1 Reciprocal Access and Notice Rights.

Subject to the procedures set forth below, and to be in compliance with all applicable rules and regulations of the FRA, the parties shall have the following reciprocal access rights:

- a) Port may enter upon the Corridor for the purposes set forth in Sections 2.2 and 3.2.
- b) In the event the Port becomes aware of or is notified of an emergency of any kind, Port shall provide immediate notice of such events to TPO's duty officer at the contact number set forth in Section 3.2.
- c) Security personnel of either party in pursuit of a criminal suspect may enter upon the Corridor for the purposes of apprehending the suspect.
- d) TPO may enter upon the Port Property for the purposes set forth in this Agreement.
- e) Except for emergencies when reasonable notice under the circumstances shall be given, Port shall give TPO at least forty-eight (48) hours' prior telephonic notice of any entry onto the Corridor, and shall not enter upon the Corridor until a valid work permit is issued by TPO. If flagging is necessary, no entry shall be made until TPO has made arrangements for flagging.
- f) Any entry by Port (or its contractors, invitees or licensees) on any portion of the Corridor within twenty feet (20') of the track center of the Corridor shall be subject to the notice and flagging requirements under subparagraph above, unless the parties agree to an alternative procedure.
- g) Hazardous Materials may be brought by TPO onto the Corridor only to the extent necessary for the purposes for which entry is allowed under Section 7.1, and in all events in compliance with all applicable Environmental Laws. Notwithstanding the foregoing, TPO shall not transport, bring onto, or store on the Corridor or Port Property any THIs or PHIs.
- h) In the event of leakage, spillage, release, discharge or disposal of any Hazardous Materials by TPO (including, without limitation, by explosion), TPO shall give Port prompt notice of such event, and at its sole cost and expense, clean or remediate Port's property to the standards required by law or by any governmental agency or public body having jurisdiction in the matter. Should any such leakage, spillage, release, discharge or disposal result in a fine, penalty, cost, or charge, TPO shall promptly and fully pay such fine, penalty, cost or charge. TPO shall be responsible for any such leakage, spillage, release, discharge or disposal by any third party it admits to the Corridor. TPO shall indemnify, protect, defend, and hold harmless Port, its trustees, directors, officers, employees, agents, contractors, parent corporations and subsidiaries from and against any and all liabilities or claims for all loss, damage, injury, and death arising as a result of any such leakage, spillage, release, discharge or disposal. The

provisions of this Section 6.1 h) are in addition to and not in limitation of the provisions of hereof, and shall survive the termination of this Agreement.

SECTION 7. Liability.

7.1 Hazardous Materials and Environmental Liability.

a) If the performance of this Agreement creates any solid or Hazardous Materials (e.g., the removal of any materials from the trains that require disposal), said Hazardous Materials shall be properly disposed of in accordance with federal, state and local laws, at the expense of the TPO. In no event shall the Port be identified as the generator of the Hazardous Materials. The TPO shall notify the Port of any such Hazardous Materials and the Port shall receive a copy of the results of any tests conducted on the wastes. The TPO shall hold harmless, indemnify and defend the Port from any claims, costs, damages, fines or other penalties arising from the disposal of any Hazardous Materials created by the performance of this Agreement, regardless of the absence of negligence or other malfeasance by TPO. This provision shall survive the termination or expiration of this Agreement.

b) At no time during the term of this Agreement shall the TPO or its designee, without first obtaining the written consent of the Port, maintain, treat, dispose of, store or have on the Corridor and/or Port Property, or permit any other party to have, maintain, treat, dispose of, or store on the Corridor and/or Port Property, anything which is classified by federal, state or local laws as Hazardous Materials or which requires a permit for the storage, treatment, disposal, handling or maintenance of it from any government authority. This excludes (1) transport or storage of materials by or on rail as long as said transport or storage complies with all Environmental Laws, including the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, *et seq.*, and Sections 2.1 c) and 6.1 g) of this Agreement, and (2) petroleum products, lubricants, antifreeze and such other materials that may be normally consumed in the daily operations of a railroad. Any permits required in compliance with this provision and all federal, state or local laws shall be obtained at TPO's sole cost.

c) The TPO further agrees to indemnify and hold Port harmless from all costs, expenses, liabilities, demands, claims, causes of action at law or in equity whatsoever arising from its, or any of its contractors, agents or invitees', treatment, disposal, storage, maintenance or handling of any Hazardous Materials on the Corridor and/or Port Property during the term of this Agreement, including, but not limited to, the cost of clean-up, environmental damage assessments, defense and reasonable attorney's fees. The Port agrees to cooperate in the prosecution and collection of all costs, expenses, liabilities, demands, and claims, associated with any treatment, disposal, storage, maintenance or handling of any Hazardous Materials on the Corridor and/or Port Property, including, but not limited to, the cost of clean-up, environmental assessments, defense and reasonable attorney's fees, prior to occupancy by the TPO, against any identified responsible party.

d) The provisions of Sections 7.2 through 7.6 shall in no way limit or reduce the application, enforceability or effect of this Section 7.1.

7.2 Assumption of Responsibility.

a) Except as otherwise expressly provided in this, TPO will assume all Losses and will indemnify Port for all Losses which arise from TPO's presence on the Corridor or on Port Property without regard to fault, failure, negligence, misconduct, malfeasance, or misfeasance of TPO or its employees, agents or servants.

b) The allocation of responsibility for Losses under this applies only to Losses proximately caused by incidents occurring on or adjacent to the Corridor or Port Property, and arising out of TPO's presence on the Corridor, or on Port Property.

c) All costs and expenses incurred in connection with the investigation, adjustment and defense of any claim or suit shall be included as part of the Loss for which responsibility is assumed under the terms of this, including, without limitation, salaries or wages and associated benefits of, and out-of-pocket expenses incurred by or with respect to, employees of either party engaged directly in such work and a reasonable amount of allocated salaries and wages of employees providing support services to the employees so engaged directly in such work.

7.3 Allocation of Responsibilities.

a) Invitees. Losses arising out of personal injury (including bodily injury and death) to, or property damage suffered by, an invitee of either party shall be the responsibility of and borne and paid solely by TPO, except as otherwise provided in Section 7.3 a) i and Section 7.4. Consultants and contractors of TPO, and any person who is on, or has property on, a train or other rolling stock operated by or for the account of TPO or admitted to operate on the Corridor (other than an employee of TPO engaged in performing duties for TPO), shall rebuttably be presumed to be an invitee of TPO.

i. If an invitee of Port is negligent and causes Losses to TPO or Port, Port will be responsible for such Losses and will indemnify TPO.

b) Persons Other Than Invitees. Except as provided in Section 7.4, Losses arising out of personal injury (including bodily injury and death) to, or property damage directly suffered by any person who is not an invitee of Port or TPO (including, without limitation, Port, TPO, employees of Port or TPO while engaged in the performance of their duties as an employee, persons in adjacent public streets (including public sidewalks), and trespassers), shall be the responsibility of and borne and paid exclusively by TPO.

c) Unenforceability. If any of the provisions of this Section 7.3 would otherwise be prohibited by or unenforceable under the laws of Washington State (including a determination by a final judgment of a Washington State court with jurisdiction that indemnification under the circumstances involved is against the public policy of Washington State), the indemnity provided by such provision shall be deemed to be limited to and operative only to the maximum extent permitted by law. Without limitation, if it is determined by a final judgment of a Washington State court with jurisdiction that any law or public policy of Washington State prohibits the indemnification of a party for its own sole negligence in any instance covered by the provisions of this Section 7.3, those provisions shall be deemed to

exclude indemnification for such party's sole negligence but to permit full indemnification, as specified in this Section 7.3, if both parties were negligent.

7.4 Excluded Conduct.

"Excluded Conduct" shall mean conduct by a supervisory level or higher employee of one of the parties, where such conduct is alleged in a properly filed complaint by a plaintiff or plaintiffs as the basis for an award of exemplary or punitive damages under Washington State law, and actually results in an award of exemplary or punitive damages by a jury after trial of the issues and exhaustion of judicial appeals which would permit the award of exemplary or punitive damages. Neither party shall be indemnified for any Loss resulting from its own Excluded Conduct, and in any such case such party shall be responsible for and bear the Loss in proportion to its relative degree of fault and be responsible for and bear all exemplary or punitive damages, if any, resulting from its Excluded Conduct. If a party asserts that the other was guilty of Excluded Conduct and denies liability for indemnification of the other party based thereon, the party asserting such Excluded Conduct shall have the burden of proof in establishing such conduct.

7.5 Scope of Indemnification.

a) In any case where a party is required under the provisions of this to bear a Loss, it shall pay, satisfy and discharge such Loss and all judgments that may be rendered by reason thereof and all costs, charges and expenses incident thereto, and such party shall forever indemnify, defend and hold harmless the other party and its commissioners, trustees, directors, officers, agents, employees, shareholders, parent corporations, subsidiaries and affiliated companies, or governmental entities from, against and with respect to any and all Losses which arise out of or result from the incident giving rise thereto.

b) TPO hereby waives any immunity TPO may have under applicable workers' compensation benefit or disability laws (including but not limited to Title 51 RCW) in connection with the foregoing indemnity. Such waiver shall not prevent TPO from asserting such immunity against any other person or entities. TPO AND PORT AGREE AND ACKNOWLEDGE THAT THIS PROVISION IS THE PRODUCT OF MUTUAL NEGOTIATION.

c) TPO shall indemnify, hold harmless and defend Port from any and all Railroad Unemployment Insurance Act (45 U.S.C.A. §§ 351 et seq.), Railroad Retirement Act (45 U.S.C. §231 et seq.), Railway Labor Act (45 U.S.C. Sec. 151 et. seq.), Federal Employers Liability Act (45 U.S.C. Sec 51 et. seq.), common carrier obligations pursuant to (49 U.S.C. Sec. 10101 et. seq.), and any Federal rail safety legislation, that arise from TPO's use of the Corridor and the Port Property.

7.6 Procedure.

a) If any claim or demand (short of a lawsuit) shall be made by any person against an indemnified party under this , the indemnified party shall, within thirty (30) days after actual notice of such claim or demand, cause written notice thereof to be given to the indemnifying party, provided that failure to notify the indemnifying party shall not relieve the

indemnifying party from any liability which it may have to the indemnified party under this except to the extent that the rights of the indemnifying party are in fact prejudiced by such failure. The indemnifying party shall have the right, at its sole cost and expense, to control (including the selection of counsel reasonably satisfactory to the indemnified party) or to participate in the defense of, negotiate or settle, any such claim or demand, and the parties agree to cooperate fully with each other in connection with any such defense, negotiation or settlement. In any event, the indemnified party shall not make any settlement of any claims or demands which might give rise to liability on the part of the indemnifying party under this without either providing the indemnifying party with a full release with respect to such liability or obtaining the prior written consent of the indemnifying party, which consent shall not be unreasonably withheld, conditioned or delayed.

b) In the event any lawsuit is commenced against either party for or on account of any Loss for which the other party may be solely or jointly liable under this Agreement, the party sued shall give the other party timely written notice of the pendency of such action, and thereupon the party so notified may assume or join in the defense thereof. If the party so notified is liable therefor under this Agreement, then, to the extent of such liability, such party shall defend, indemnify and save harmless the party so sued from Losses in accordance with the liability allocations set forth in this Agreement. Neither party shall be bound by any judgment against the other party unless it shall have been so notified and shall have had reasonable opportunity to assume or join in the defense of the action. When so notified and the opportunity to assume or join in the defense of the action has been afforded, the party so notified shall, to the extent of its liability under this Agreement, be bound by the final judgment of the court in such action.

c) Subject to the provisions of Section 7.6 a), on each occasion that the indemnified party is entitled to indemnification or reimbursement under this, the indemnifying party shall, at each such time, promptly pay the amount of such indemnification or reimbursement. If the indemnified party is entitled to indemnification under this and the indemnifying party does not elect to control any legal proceeding in connection therewith, the indemnifying party shall pay to the indemnified party an amount equal to the indemnified party's reasonable legal fees and other costs and expenses arising as a result of such proceeding.

d) Any dispute between the parties as to the right to indemnification or the amount to which it is entitled pursuant to such right with respect to any matter shall be submitted to arbitration pursuant to of this Agreement.

7.7 Compliance with Laws.

Both parties shall comply with all applicable federal, state and local laws and regulations, and all applicable rules, regulations or orders promulgated by any court, agency, municipality, board or commission. If any failure of either party to comply with such laws, regulations, rules or orders in respect to that party's use of the Corridor results in any fine, penalty, cost or charge being assessed against the other party, or any Loss, the party which failed to comply agrees to reimburse promptly and indemnify, protect, defend (with counsel reasonably acceptable to the indemnified party) and hold harmless the other party for such amount.

7.8 Delay/Interruption of Service.

Port shall not be held liable for any delay or interruption to the trains, locomotives or cars of TPO unless due to Excluded Conduct or except as otherwise provided for in Section 7.3 i.

7.9 No Limitation on Risk Allocation.

The provisions of this Section 7 shall apply notwithstanding the provisions of Section 8. In no event shall the indemnification provisions of this Section 7 be limited to the insurance coverage required under Section 8.

7.10 Statutory Defenses.

All statutory defenses and limitations applicable to Port shall be retained by Port with respect to parties other than TPO, and none are intended to be waived with respect to parties other than TPO by Port under this Agreement.

7.11 Survival.

The provisions of this Section 7 shall survive the termination or expiration of this Agreement.

SECTION 8. Insurance.

8.1 Freight Rail Service Coverage.

TPO shall obtain and maintain freight service general liability insurance written on an "occurrence" basis, with minimum limits of Five Million Dollars (\$5,000,000) per occurrence. The Port shall be listed as an additional insured for ongoing and completed operations. Coverage shall include contractual liability coverage with no exclusions relative to rail operation. Coverage for punitive damages shall be included to the extent such coverage is permitted under Washington State law. Insurance shall be placed with a company having a current A. M. Best's Insurance Guide Rating of at least "A" or equivalent, and admitted as an insurer by the Washington State Office of the Insurance Commissioner. TPO may self-insure to an amount not to exceed One Million Dollars (\$1,000,000) provided that total coverage limits (self-insurance plus excess liability insurance) are at least to the amounts stated within this Section; provided further, that this sentence shall not inure to the benefit of TPO's successors or assigns without the reasonable written consent of the Port.

a) The policy required under this Section 8.1 shall include general liability property damage and bodily injury coverage for operation of Freight Rail Service along with any related operation, maintenance, and construction on or about the Corridor and Port Property by the TPO. If the policy excludes maintenance and construction on or about the Corridor and Port Property, a separate railroad protective liability policy shall be issued in the name of the Port with minimum limits of Two Million Dollars (\$ 2,000,000) per occurrence for bodily injury and property damage, and Five Million Dollars (\$ 5,000,000) in the aggregate.

b) The policy required under this Section 8.1 shall also include pollution coverage whether incurred during operations or during maintenance or construction. If the general liability policy contains pollution exclusion, a separate pollution policy shall be purchased with minimum limits of Three Million Dollars (\$3,000,000) per occurrence, and Five Million Dollars (\$5,000,000) in the aggregate.

c) The policy limits required under this Section 8.1 shall be adjusted by the parties every three (3) years to reflect industry standards, liability claim trends and market conditions.

8.2 Excursion Rail Service Coverage.

TPO shall obtain and maintain general liability insurance with an excursion/passenger endorsement, and written on an "occurrence" basis, with minimum limits of Twenty-five Million Dollars (\$25,000,000) per occurrence and in the aggregate for all Excursion Rail Service in which total passenger and crew count is 50 or less; and Fifty Million Dollars (\$50,000,000) per occurrence and in the aggregate for all Excursion Rail Service in which total passenger and crew count exceeds 50. The Port shall be listed as an additional insured for ongoing and completed operations. Coverage shall include contractual liability coverage with no exclusions relative to rail operation. Coverage for punitive damages shall be included to the extent such coverage is permitted under Washington State law. Insurance shall be placed with a company having a current A. M. Best's Insurance Guide Rating of at least "A" or equivalent, and admitted as an insurer by the Washington State Office of the Insurance Commissioner. TPO may self-insure to an amount not to exceed Five Million Dollars (\$5,000,000) provided that total coverage limits (self-insurance plus excess liability insurance) are at least to the amounts stated within this Section; provided further, that this sentence shall not inure to the benefit of TPO's successors or assigns without the reasonable written consent of Port.

a) The policy required under this Section 8.2 shall include general liability property damage and bodily injury coverage for operation of Excursion Rail Service along with any related operation, maintenance, and construction, on or about the Corridor and Port Property by the TPO. If the policy excludes maintenance and construction on or about the Corridor and Port Property, a separate railroad protective liability policy shall be issued in the name of the Port with minimum limits of Two Million Dollars (\$ 2,000,000) per occurrence for bodily injury and property damage, and Six Million Dollars (\$ 6,000,000) in the aggregate.

b) The policy required under this Section 8.2 shall also include pollution coverage whether incurred during operations or during maintenance or construction. If the general liability policy contains pollution exclusion, a separate pollution policy shall be purchased with minimum limits of Three Million Dollars (\$3,000,000) per occurrence, and Six Million Dollars (\$6,000,000) in the aggregate.

c) The policy limits required under this Section 8.2 shall be adjusted by the parties every three (3) years to reflect industry standards, liability claim trends and market conditions.

8.3 Automobile Coverage.

TPO shall maintain general automobile liability insurance of not less than One Million Dollars (\$1,000,000) per occurrence, combined single limit for bodily injury and property damage using ISO Form CA 00 01 (or equivalent). Coverage shall extend to all owned, non-owned, hired, leased, rented, or borrowed vehicles. The policy shall contain a waiver of subrogation in favor of the Port.

8.4 Evidence of Insurance.

Prior to the Execution Date, and annually thereafter, TPO shall forward evidence of insurance as required in this Section including evidence of the Port's status as an additional insured for the Freight Rail Service and Excursion Rail Service policies; and a written copy of the waiver of subrogation for the automobile liability policy. Upon request from the Port, TPO shall forward certified copies, within 30 days of the request from the Port, of any binders, policies, and declarations of insurance that is required by this Agreement.

8.5 No Port Deductible.

No policies obtained by TPO for this Agreement shall contain a deductible obligation for the Port. If the policy is issued with a deductible option, the TPO shall be liable for all deductibles, as well as any applicable allocated loss adjustment expenses if applicable. All costs incurred by a program of self-insurance, including self-insurance as identified in Sections 8.1 and 8.2 are to be borne by TPO.

8.6 Additional Documentation – Self Insurance.

If self-insurance is utilized for a portion of the coverage permitted in Sections 8.1 and 8.2, evidence must be provided to the Port of the TPO's net worth, a copy of the most recent audited financials, and a written description of the self-insurance program. This must be submitted with the other documentation required in Section 8.4.

8.7 Applicability of Workers' Compensation.

TPO is fully responsible for ascertaining the applicability of Title 51 Industrial Insurance, of the Revised Code of Washington, as well as any federal laws that pertain to workers compensation coverage for railroad employees and operators, such as the Federal Employers' Liability Act (FELA). TPO shall comply with all required workers compensation requirements whether through purchase of commercial insurance or as a qualified self insurer. In the event FELA is the applicable coverage under this Agreement, TPO shall provide the Port with evidence of coverage. An insurance certificate shall be additionally required to show evidence of other applicable worker compensation coverage.

a) In the event Title 51 of the Revised Code of Washington applies to this Agreement, TPO shall submit a current employer liability certificate as issued by the Washington Department of Labor and Industries that shows the status of TPO worker compensation account prior to the Execution Date of this Agreement. TPO shall list here their UBI Number 602-672-764 and their State Worker Compensation Account Number

TPO shall also provide the Port with Washington State Stop Gap employers' liability insurance. This shall be in an amount of One Million Dollars (\$1,000,000) per accident and One Million Dollars (\$1,000,000) per disease using ISO CG 04 42 11 03 or equivalent. This coverage may be provided by endorsing the primary general liability policies identified in Sections 8.1 and 8.2. To the extent applicable, there shall be no exclusions relative to railroad workers or workers covered under the Federal Employers' Liability Act.

8.8 Primary Insurance.

TPO's insurance shall be primary with respect to its obligations under this Agreement and non-contributory with respect to any coverage the Port may have.

8.9 Maintaining Insurance Requirements.

TPO's insurance requirements shall be maintained for the full term of this Agreement and shall not be permitted to expire or be canceled or materially changed. Each such insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or limits except after thirty (30) days' prior written notice has been given to each insured and additional insured, including the Port.

8.10 Statutory Defenses.

All statutory defenses and limitations applicable to TPO shall be retained by TPO with respect to parties other than the Port, and none are intended to be waived by TPO with respect to parties other than the Port by the acquisition of insurance by TPO or under this Agreement.

8.11 Failure to Maintain Insurance.

A failure of TPO to maintain the insurance required by this Section 8 shall not relieve TPO of any of its liabilities or obligations under this Agreement.

8.12 Waiver of Subrogation.

Every policy of insurance required under this Agreement to be held by TPO shall include a waiver of all rights of subrogation against the Port.

8.13 Other Insurance.

TPO shall require that all of its contractors and sub-subcontractors carry a railroad protective liability policy with minimum limits of Two Million Dollars (\$2,000,000) per occurrence for bodily injury and property damage, and with an aggregate policy limit of no less than Six Million Dollars (\$6,000,000). Said policy shall name the Port as an additional insured.

SECTION 9. Compensation and Billing.

9.1 Invoices.

Any Invoice or Invoices submitted to the parties under this Agreement ("Invoice" or "Invoices") must be itemized with a detailed description of the work performed, the date of such work, the person performing such work, the time expended and the associated hourly billing rate or charge for such work, and any reimbursable expenses (including, without limitation, the cost of materials used) incurred in the performance of the work. The party requesting reimbursement shall certify that it has actually incurred the expenses set out in its Invoice. Invoices for reimbursable expenses may not exceed the out-of-pocket expense for such items. Invoices shall be paid within thirty (30) days after receipt thereof by the payor. If a party disputes any items on an Invoice, that party may deduct the disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deductions, if any, shall be documented to the other party within thirty (30) days after receipt of the Invoice. Once documentation is given for the disputed amounts, and accepted by the paying party, the disputed amounts shall be paid by the paying party with fifteen (15) days after receipt of the documentation. No Invoice shall be submitted later than one hundred twenty (120) days after the last day of the calendar month in which the reimbursable expense or cost covered thereby is incurred.

9.2 Audit.

So much of the books, accounts and records (except for privileged or confidential records) of each party hereto as are related to the subject matter of this Agreement shall at all reasonable times be open to inspection and audit by the authorized representatives and agents of the parties. All accounting records and other supporting papers shall be maintained for a minimum of three (3) years from the date thereof. If work relating to this Agreement is funded in whole or in part by a federal grant, the Comptroller General of the United States and authorized representatives of the federal agency furnishing the grant shall have the right to examine and audit such books, accounts, and records in accordance with applicable federal laws and regulations.

9.3 Supporting Documentation.

Upon request, a party disputing the accuracy of any Invoice shall be entitled to receive from the invoicing party copies of such supporting documentation and/or records as are kept in the ordinary course of the invoicing party's business and which are reasonably necessary to verify the accuracy of the Invoice as rendered.

9.4 Fees.

9.4 Fees. TPO shall pay the Port:

a) A fee of Ten Thousand Dollars (\$10,000.00) payable on the closing of the transaction between the Port and BNSF referenced in Recital A; and

follows:

b) A quarterly fee based on the TPO's traffic volume calculated as

\$10.00 per loaded freight car; and

\$.10 per excursion passenger carried. For purposes of this Section 9.4, the term "excursion passengers" shall include passengers carried by another operator pursuant to a contract with TPO; and

5% of gross miscellaneous revenue, including but not limited to, car storage revenue.

c) Additional Fee: TPO represents and warrants that its written application for RRIF financing, which it has heretofore submitted to the FRA, expressly anticipates using a portion of the RRIF funds to pay the Additional Fee described herein, and that 45 USC §822(b)(1), provides that "RRIF funds may be used to (A) acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, bridges, yards, buildings, and shops; (B) refinance outstanding debt incurred for the purposes described in subparagraph (A); or (C) develop or establish new intermodal or railroad facilities." Upon TPO receiving documentation from the FRA acknowledging receipt of any required credit risk premium payment by TPO and approving the disbursement of RRIF loan financing to TPO for the Additional Fee, an additional fee of Nine Hundred Ninety Thousand Dollars (\$990,000.00) shall be payable to the Port within thirty (30) days of said disbursement; This fee shall be in addition to the fees and payments required under Section 9.4 b):

d) All fees payable by TPO under Sections 9.4 b) shall be payable at the end of the quarter following the quarter during which the fees accrued. For example, fees for Quarter 1 (January-March) shall be payable at the end of Quarter 2 (April-June), or on June 30th. Notwithstanding the foregoing, any fees owed at the termination or expiration of the Agreement shall be paid to the Port within 30 days of said expiration or termination.

e) When submitting payments to the Port under Sections 9.4 b), TPO shall include a statement of its traffic and passenger volumes, including all car counts and tonnages in support of the amount of the fees.

f) All fees referenced in this Section 9.4 are the same and are not in addition to the fees payable under Section 10.4 of the License.

SECTION 10. Coordination.

10.1 Coordination Committee.

Port and TPO shall establish a Coordination Committee consisting of at least two (2) representatives of each party. The Coordination Committee shall be a forum for the parties to share information, discuss matters submitted by one party to the other party for review and/or approval, and seek resolution of any issues between the parties with respect to this Agreement. The Coordination Committee shall meet regularly (in person or telephonically) and also as necessary to address issues between the parties that require prompt resolution.

SECTION 11. Binding Arbitration.

11.1 Controversies Subject to Arbitration.

Any and all claims, disputes or controversies between Port and TPO arising out of or concerning the interpretation, application, or implementation of this Agreement that cannot be resolved by the parties through the Coordination Committee or by negotiations shall be submitted to binding arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules, except as otherwise provided in this Section. If the AAA discontinues promulgation of the Commercial Arbitration Rules, the parties shall use the AAA's designated successor rules, and if the AAA does not designate successor rules, the parties shall agree on other rules. The judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

11.2 Selection of Arbitrator.

In the event a claim, dispute or controversy arises, either party may serve a written demand for arbitration upon the other party. If the claim, dispute or controversy is not resolved by the parties within thirty (30) days after the service of the demand, the matter shall be deemed submitted to arbitration. If within forty (40) days after service of the demand, the parties have not selected a single arbitrator, each party shall within an additional ten (10) days thereafter select an arbitrator. In such case, if either party has not selected an arbitrator within ten (10) days after receipt of notice that the other party has selected an arbitrator, the arbitrator selected by the other party shall arbitrate the claim, dispute or controversy. The two selected arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree upon the third arbitrator within ten (10) days of the selection of the two selected arbitrators, the AAA shall select the third arbitrator. The arbitrator(s) shall be disinterested.

11.3 Expedited Arbitration Schedule.

a) In the event either party reasonably finds that the issues of any claim, dispute or controversy are likely to directly, imminently, materially and adversely affect human health or safety, either party may request, in the arbitration demand delivered pursuant to Section 11.2, an expedited arbitration procedure as set forth in this Section solely for the purpose of obtaining a provisional remedy that by law or in equity could be imposed in a court proceeding against a rail carrier subject to the jurisdiction of the Surface Transportation Board (e.g., temporary restraining order, preliminary injunction or injunction).

b) Within five (5) days after service of a demand for expedited arbitration, the parties shall agree on an arbitrator. If the parties fail to agree on an arbitrator within such five (5) day period, each party shall within two (2) days thereafter select an arbitrator. In such case, if either party has not selected an arbitrator within two (2) days after receipt of notice that the other party has selected an arbitrator, the arbitrator selected by the other party shall arbitrate the claim, dispute or controversy. Otherwise, the two selected arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree upon the third arbitrator within two (2) days of the deadline for the selection of the two selected arbitrators, the AAA shall select the third arbitrator. The arbitrator(s) shall be disinterested.

c) The expedited arbitration hearing shall commence no later than ten (10) days after service of a demand for expedited arbitration and shall be concluded on the same day. The arbitration decision shall be rendered by the arbitrator(s) in writing on or before the day following the arbitration hearing.

d) Prior to rendering any decision, the arbitrator must find that the issues of the claim, dispute or controversy are likely to directly, imminently, materially and adversely affect human health or safety. In the event the arbitrator finds that the foregoing criteria have not been met, the proceeding shall be dismissed without prejudice and the parties shall proceed with the arbitration procedure and schedule set forth in Sections 11.1 and 11.2 and; provided, however, that no new demand for arbitration need be served by the party demanding arbitration.

11.4 Pending Resolution.

During the pendency of such arbitration proceedings, the business and the operations to be conducted, and compensation for service under this Agreement, to the extent that they are the subject of such controversy, shall continue to be transacted, used and paid in the manner and form existing prior to the arising of such controversy, unless the arbitrator shall make a preliminary ruling to the contrary.

11.5 Cost of Arbitration.

Each party solely shall bear the attorneys' fees, costs and expenses incurred by it in connection with such arbitration; provided, however, the arbitrator shall have the power to award attorneys' fees and costs to either party if the arbitrator determines in its reasonable discretion that the position of the other party to the arbitration was frivolous.

SECTION 12. Term and Termination.

12.1 Term.

The initial term of this Agreement shall expire on the 10th anniversary of the Execution Date. So long as TPO is not in default with respect to a material term or condition of this Agreement, TPO may elect to continue this Agreement for one (1) additional renewal term of ten (10) years by giving Port written notice of such intent at least one (1) year prior to the expiration of the initial term. *Notwithstanding* the foregoing, this Agreement shall terminate 60 days after written notice by Port to TPO that TPO is in default with respect to a material term or condition of this Agreement, which default has not been cured on or prior to such 60th day.

12.2 Termination for Abandonment.

In the event that TPO, or a permitted successor or assign, lawfully abandons, discontinues or otherwise lawfully ceases to provide Freight Rail Service on the Corridor by obtaining any necessary authority or exemption from the Surface Transportation Board ("STB"), Port may choose to (1) terminate this Agreement upon ninety (90) days written notice to TPO; or

(2) terminate all the rights of TPO, or that of a permitted successor or assign, to provide Freight Rail Service over the Corridor under this Agreement. Notwithstanding the previous sentence, after the termination of this Agreement under this Section, TPO may, with Port's approval, continue to provide Excursion Rail Service over the Corridor. In all events, TPO shall remain liable for all accrued or continuing obligations under this Agreement, and all obligations required upon termination and surrender of the Corridor.

12.3 Offers of Financial Assistance ("OFA").

In the event TPO, or a permitted successor or assign, seeks STB authority (or an exemption therefrom) to abandon any portion or segment of the Corridor, if TPO receives an OFA with respect thereto, TPO shall promptly notify Port, Port (or its designee) shall submit its own OFA and TPO shall accept the OFA submitted by Port (or its designee) for the offer amount of \$1.

12.4 Railbanking.

In the event TPO, or a permitted successor or assign, seeks STB authority (or an exemption therefrom) to abandon any portion or segment of the Corridor, if Port, King County ("County"), or the designee of either of them timely files with the STB a Statement of Willingness to Assume Financial Responsibility ("SWAFR") meeting the requirements of the STB's regulations, TPO shall file with the STB: (i) an expression of willingness to enter into a railbanking/trail use agreement; (ii) a statement that TPO and Port, or TPO and County, or TPO and such designee, have entered into such an agreement; and (iii) a request that the STB issue a Notice of Interim Trail Use ("NITU") or a Certificate of Interim Trail Use ("CITU") (as appropriate). Upon the effective date of each such NITU or CITU, TPO shall transfer to Port (or Port's designee) TPO's right to restart freight rail service on the portion of the Corridor that is the subject of the SWAFR.

12.5 Binding Successors; Assignment.

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective permitted successors and assigns, except that TPO may not assign its rights and obligations under this Agreement without the prior written consent of Port, which consent may not be unreasonably denied, delayed or conditioned. Any assignment, encumbrance or other transfer in violation of the foregoing shall be void. Port may assign its rights and obligations under this Agreement freely.

12.6 Notices.

Except as otherwise expressly provided in this Agreement, all notices and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) on the date of delivery, if delivered personally to the party to whom notice is given, or (b) at the earlier of actual receipt or the third business day following deposit in the United States mail, postage prepaid. Notices and other communications shall be directed to the parties at the addresses shown below. A party may change its person designated to receive notice or its address from time to time by giving notice to the other party in accordance with the procedures set forth in this Section.

Port: Port of Seattle
P. O. Box 1209
Real Estate Division
Seattle, WA 98111
Telephone No. 206-728-3722

If delivered:
Port of Seattle
2711 Alaskan Way
Seattle, WA 98121

TPO: GNP Rly. Inc.
403 Garfield Street #20
Tacoma, WA 98444
Attention: Thomas Payne
Telephone No. 253-459-9702

12.7 Headings.

The section and subsection headings in this Agreement are for convenience only and shall not be used in its interpretation or considered part of this Agreement.

12.8 Integration, Amendment, and Waiver.

This Agreement controls all the rights and obligations of TPO and Port as to the operation of Freight Rail Service and Excursion Rail Service on the Corridor. (The License controls all the rights and obligations of TPO and Port as to the operation of Excursion Rail Service on the Excursion Spur and Extended Excursion Spur, if applicable). This Agreement is the entire agreement, and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties concerning the subject matter hereof. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by both of the parties. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

12.9 Counterparts.

This Agreement may be executed in any number of counterparts, and by different parties in separate counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Facsimile signatures shall be deemed original for all purposes.

12.10 Governing Law.

This Agreement shall be construed and interpreted in accordance with the laws of Washington State and/or federal law, where applicable.

12.11 Time of Essence.

Time is of the essence of each and every provision of this Agreement.

12.12 Agreement Runs with Land; Recordation.

This Agreement is made for the benefit of the Corridor and shall run with the land, except that any parcel transferred by the Port to an unaffiliated person or entity for purposes other than rail operations or trail use that does not contain any facilities used in connection with the rail operations intended by this Agreement shall be deemed removed from the Corridor or Port Property as applicable. This Agreement shall bind and inure to the benefit of the parties' respective successors in interest in the Corridor to the extent stated in the prior sentence. This Agreement shall be recorded, and each party, upon request of the other party, agrees to execute a document in recordable form evidencing the removal of any parcel from the Corridor or the Port Property.

12.13 Not for the Benefit of Others.

This Agreement and each and every provision herein is for the exclusive benefit of the parties hereto and not for the benefit of any third party, except that the provisions related to railbanking in Section 12.4 are for the benefit of the County. Nothing herein shall be construed to create or increase any right in any third party to recover by way of damages or otherwise against either of the parties hereto, except for the rights of the County under Section 12.4.

12.14 Attorneys' Fees.

If any legal action or any arbitration or other proceeding is brought for the enforcement or interpretation of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs in connection with that action or proceeding, in addition to any other relief to which it or they may be entitled.

12.15 Regulatory Requirements.

If any governmental agency imposes any requirement on either or both of Port and TPO which Port can reasonably demonstrate would not have been imposed but for TPO's use of the Corridor for TPO's Freight Rail Service or Excursion Rail Service, the entire cost of compliance shall be borne solely by TPO, including, without limitation, costs and expenses for construction and maintenance of improvements, relocation of Facilities, implementation of safety procedures, and the filing of or participation in regulatory proceedings. Both parties shall reasonably cooperate to ensure compliance with all such governmental requirements. Notwithstanding the foregoing sentence, TPO's cooperation shall not include any modification to, or restriction of, its operations in the Corridor; provided, however, that TPO's cooperation may include modifications to the Facilities to the extent such modifications do not restrict TPO's operations, and subject to TPO's obligation to bear all costs and expenses thereof.

12.16 TPO Operating Data.

In the event of termination of TPO's operations, TPO shall, at the Port's request and expense, provide to the Port or the Port's designee all data associated with TPO's operations on the Corridor, including, but not limited to, car tracing, shipper identification and rates, and accounting records. Provided, that in the event TPO's operations terminate as a result of TPO transferring its rights to another operator, with the Port's consent, such operating data shall be transferred by TPO to its successor at TPO's cost or that of TPO's successor.

12.17 Removal of TPO's Property.

Upon termination of this Agreement, TPO shall have ninety days from the date of termination to remove all of TPO's personal property and trade fixtures, so long as such removal does not damage the Corridor or Port Property. If damage results to the Corridor or to Port Property as a result of TPO's activities under this Section 12.17, TPO shall, at its sole expense, restore or reimburse the Port for the cost to restore the Corridor or Port Property to as good condition as they were prior to TPO's removal activities, normal wear and tear excepted. If TPO fails to remove any of the personal property and trade fixtures within the time authorized under this Section, the Port may remove TPO's property at TPO's expense, subject to offset by any net proceeds received by the Port from the sale of TPO's property. TPO's obligation to (i) restore the Port for any damage to the Corridor or Port Property, and (ii) repay the Port for the cost of any property removal shall survive the termination of this Agreement. All other property or improvements placed on the Corridor or Port Property by TPO during the term of the Agreement that do not constitute personal property or trade fixtures, shall become the property of the Port upon termination of this Agreement.

12.18 Encumbrances.

TPO may pledge or otherwise encumber its rights under this Agreement to secure its obligations under any loan agreement or similar or related document; provided, however, that such pledge or other encumbrance shall be subject to and subordinate to the rights of the Port and its assigns under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the Execution Date.

PORT OF SEATTLE,
a Washington municipal corporation

By: [Signature]
Name: _____
Title: _____

GNP RLY. INC.,
a Washington corporation

By: [Signature]
Name: Thomas Payne
Title: Chairman & C.O.O.

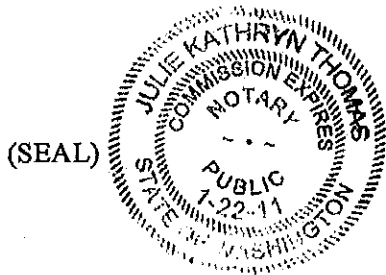
STATE OF WASHINGTON)

) ss.

COUNTY OF King)

On Dec. 17, 2009, before me, a Notary Public in and for said County and State, personally appeared Jay Yoshitane, of the Port of Seattle, a Washington municipal corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



Julie Kathryn Thomas
Printed Name
Julie Kathryn Thomas
NOTARY PUBLIC in and for the State of
Washington, residing at Bothell, Wa
My commission expires 7-22-11

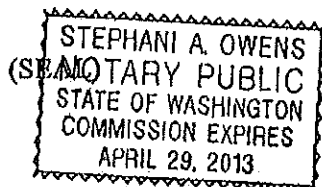
STATE OF WASHINGTON)

) ss.

COUNTY OF King)

On 12-18, 2009, before me, a Notary Public in and for said County and State, personally appeared Thomas Pague, of GNP Rly. Inc., a Washington corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



Stephani A. Owens
Printed Name
Stephani A. Owens
NOTARY PUBLIC in and for the State of
Washington, residing at Everett
My commission expires 4-29-2013

Exhibit A

**Railroad Right-Of-Way License Agreement
(Attached)**

**RAILROAD RIGHT OF WAY LICENSE
BETWEEN
PORT OF SEATTLE
AND
GNP RLY. INC.**

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RAILROAD RIGHT OF WAY LICENSE

THIS RAILROAD RIGHT OF WAY LICENSE ("License") is entered into as of the ____ day of ____, 2009 ("Execution Date"), between the Port of Seattle, a Washington municipal corporation ("Port ") and GNP Rly. Inc., a Washington corporation ("TPO").

RECITALS

A. Pursuant to the Purchase and Sale Agreement and the Donation Agreement between Port and BNSF Railway Company, a Delaware corporation ("BNSF"), both dated as of May 12, 2008 (together, the "Acquisition Agreements") Port acquired BNSF's right, title and interest in BNSF's railroad right of way (i) from milepost 5.0 in Renton, Washington to and including the railroad bridge at milepost 38.25 in Snohomish County, Washington, and (ii) from milepost 0.0 in Woodinville south to milepost 7.3 in Redmond (the "Redmond Spur") (together, the "Port Property").

B. Port and TPO have entered into an Operations and Maintenance Agreement ("O&M Agreement") setting forth their respective rights and obligations with respect to Freight Rail Service, Excursion Rail Service, and maintenance on portions of the Woodinville Subdivision from milepost 23.8 in Woodinville, King County, Washington north to milepost 38.25 in Snohomish, Snohomish County, Washington ("Corridor"), as described in **Exhibit A** attached hereto and incorporated herein.

C. TPO also desires the right to use and operate the Excursion Spur, a portion of the Woodinville Subdivision and further described below, for Excursion Rail Service (as defined in Section 1.6 below).

D. Upon acquisition of the Corridor by the Port, the Excursion Spur, along with the railroad right of way (i) from milepost 5.0 in Renton, Washington to milepost 23.8 in Woodinville, Washington, and (ii) within the Redmond Spur, was "railbanked." King County ("County") was approved as an Interim Trail User by the Surface Transportation Board ("STB") for the purpose of railbanking, and County is accordingly subject to certain legal obligations related to the Excursion Spur, which are referred to herein as the "Railbanking Obligations." The Railbanking Obligations consist of those obligations imposed through Section 8(d) of the National Trails System Act, also known as the Rails-to-Trails Act, 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29 (collectively, and as any of the foregoing may hereafter be amended or interpreted by binding judicial or administrative authority, the "Railbanking Legislation"), the Notice of Interim Trail Use ("NITU") related to the Excursion Spur issued by the STB and any conditions or requirements imposed related thereto; the Trail Use Agreement ("TUA") entered into between BNSF and County related to the Excursion Spur under which County agreed to accept, exercise, and fulfill all of the legal rights, duties, and obligations of an Interim Trail User, and the Statement of Willingness to Accept Financial Responsibility ("SWAFR"). To carry out the Railbanking Obligations, County has been granted by the Port a Public Multipurpose Easement dated _____ and recorded under recorded number _____, under which County acquired certain rights on the Excursion Spur and the other portions of the Corridor

subject to railbanking, including the right to develop, construct and operate a recreational trail consistent with rail or other transportation uses thereon.

E. Port is willing to grant TPO the right to use and operate the Excursion Spur in the manner described in this License.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants in this License and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

Section 1. Definitions.

1.1 Additions and Alterations - Means any improvements constructed by or on behalf of either party on the Excursion Spur after the Execution Date, including, without limitation, additions, alterations and betterments of any Facilities, and any construction, reconstruction, modifications and renewals thereof or any reconstruction, modification or renewal of additional Facilities, but excluding maintenance items.

1.2 Automatic Warning Devices - Means traffic control devices at railroad-street at-grade crossings and at railroad-pedestrian at-grade crossings, including, without limitation, any combination of flashing light signals, bells, automatic gates, active advance warning devices, highway traffic signals and their associated activation and control devices, control relays and batteries, microprocessor technology, and associated electrical circuitry.

1.3 Corridor is defined in Recital B.

1.4 Environmental Law - Means any and all applicable laws, statutes, regulations, enforceable requirements, orders, decrees, judgments, injunctions, permits, approvals, authorizations, license, permissions or binding agreements issued, promulgated or entered into by any governmental agency having jurisdiction over the environmental condition of the Excursion Spur, relating to the environment, to preservation or reclamation of natural resources, or to the management, release or threatened release of contaminants or noxious odors, including, without limitation, the Hazardous Materials Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and the Hazardous and Solid Waste Amendments of 1984, the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, the Clean Air Act of 1970, as amended by the Clean Air Act Amendments of 1990, the Toxic Substances Control Act of 1976, and any similar or implementing state law, and all amendment or regulations promulgated thereunder.

1.5 Excluded Conduct - Is defined in Section 8.4.

1.6 Excursion Rail Service - Means the deployment and operation of trains using the facilities for excursion passenger service and not for commuter rail passenger service or any other service, except for head and tail operations as referred to Section 1.11.

1.7 Excursion Spur - Means that portion of the Redmond Spur from milepost 0.0 in Woodinville south to milepost 2.5 in Woodinville, Washington.

1.8 Execution Date - Means the date on which this License is executed and becomes effective.

1.9 Facilities - Means all rails, fastenings, switches, switch mechanisms and frogs with associated materials, ties, ballast, signals and communications devices (and associated equipment), drainage facilities, Automatic Warning Devices, traction power substations, overhead catenary systems, bumpers, roadbed, embankments, bridges, trestles, culverts, buildings and any other structures or things necessary for the support thereof and, if any portion thereof is located in a thoroughfare, the term includes pavement, crossing planks and other similar materials or facilities used in lieu of pavement or other street surfacing materials at vehicular and pedestrian crossings of tracks, and any and all structures and facilities required by lawful authority in connection with the construction, renewal, maintenance and operation of any of the foregoing.

1.10 FRA - Means the Federal Railroad Administration.

1.11 Freight Rail Service - Means only (a) the common carrier freight rail operations conducted by TPO or TPO's tenants or assignees on the Corridor and (b) the head and tail operations associated therewith and conducted on the Excursion Spur in accordance with this License, and no other freight service.

1.12 Hazardous Materials - Means any material or substance: (a) the presence of which requires investigation or remediation under any Environmental Law; or (b) which is defined as a "hazardous waste," "hazardous substance," "pollutant" or "contaminant" under any Environmental Law; or (c) the presence of which on, under or over adjacent properties constitutes a trespass by the owners of the Excursion Spur and poses a hazard to the health or safety of persons on adjacent properties; or (d) the presence of which on, under, or over the Excursion Spur causes a nuisance on adjacent properties and poses a hazard to the health or safety of persons on adjacent properties.

1.13 Invoice - Is defined in Section 10.1.

1.14 Loss or Losses - Means all losses, damages, claims, demands, costs, liabilities, judgments, fines, fees (including, without limitation, reasonable attorneys' fees) and expense (including, without limitation, costs of investigation, defense, expenses at arbitration, trial or appeal and without institution of arbitration or suit, and, with respect to damage or destruction of property, cleanup, repair and replacement expenses) of any nature arising from or in connection with death or injury to persons, including, without limitation, employees or tenants of the parties, or damage to or destruction of property, including, without limitation, property owned by either of the parties or their tenants, in connection with Excursion Rail Service on the Excursion Spur.

1.15 Multipurpose Easement - Means that certain easement between Port and King County, a home rule charter county and political subdivision of the State of Washington ("County") pursuant to which the County acquired certain rights on those portions of the Woodinville Subdivision from (i) milepost 23.8 in Woodinville south to milepost 5.0 in Renton, and (ii) the

Redmond Spur, including the right to develop, construct and operate a recreational trail consistent with rail or other transportation uses thereon.

1.16 O&M Agreement - Has the meaning set forth in Recital B.

1.17 Port Property - Means the rights-of-way acquired by Port from BNSF under the Deed that are subject to TPO's rights under this Agreement; provided, that if Port transfers individual parcel(s) to third parties not affiliated with Port, and the transferred parcel(s) do not remain subject to this Agreement as provided in Section 13.8, such individual parcel(s) shall not be deemed "Port Property."

1.18 Track - Means any and all main track, sidings, yards, spurs and other track constructed or to be constructed upon and across the Excursion Spur.

Section 2. TPO's Rights and Obligations.

2.1 Subject to transportation uses permitted or performed by the Port as provided in Section 3, TPO shall have the exclusive right and obligation to provide, by itself and/or by or through any entity designated by TPO, Excursion Rail Service on and over the Excursion Spur.

2.2 TPO shall have the exclusive authority to manage, direct and control all activities related to the provision of Excursion Rail Service on the Excursion Spur, including, without limitation, the operation of all trains, locomotives, rail cars and rail equipment, and the movement and speed of the same on the Excursion Spur; provided, that TPO shall not transport or store on the Excursion Spur or on Port Property any toxic inhalation hazards ("TIHs") or poison inhalation hazards ("PIHs"). *Notwithstanding* the foregoing, TPO is prohibited from using the Excursion Spur at any time for the purpose of setting out or picking up rail cars.

2.3 TPO shall employ and discharge all personnel required to perform TPO's Excursion Rail Service, shall comply with all governmental laws, rules, regulations and orders applicable to TPO's Excursion Rail Service, and shall pay all real property taxes separately levied on TPO's rights under this License and for all utilities consumed by TPO in carrying out TPO's Excursion Rail Service. All improvements, equipment and materials required for TPO's Excursion Rail Service shall be provided by TPO at the sole cost and expense of entities other than Port except as provided in this License.

2.4 Subject to the rights of and coordination with the Port and those entities that the Port may authorize to provide transportation uses on the Excursion Spur pursuant to Section 3 and with County with regard to any then current or future trail use, and solely at the expense of entities other than the Port, TPO may modify, construct, maintain, replace and remove the Tracks upon and across the Excursion Spur as may be necessary in order to operate in accordance with this License, provided that TPO may not change the location of the Tracks.

a) In the event that construction of any Tracks requires the construction of new Facilities, or modifications to, existing Facilities, such construction or modifications shall be at the expense of entities other than Port.

b) The design, construction, modification or removal of any Tracks and any new, or modified Facilities necessitated thereby, shall not unreasonably interfere with the rights the Port may exercise or grant under Section 3.1 and 3.2 of this License and that the County may exercise with regard to any then current or future trail use, shall result in the location of any modified Facilities being unchanged and the condition of any modified Facilities being of equal or better condition and functionality than such Facilities were prior to the modification, and shall be subject to Port's prior review and written approval.

2.5 TPO acknowledges and agrees that the County is the grantee under the Multipurpose Easement and that this license is subject to and incorporates herein by this reference the terms of the Multipurpose Easement as set forth in Section 1.4 of that Easement. In the event that County acquires from Port additional rights, title and interests in the Excursion Spur, the incorporated terms of the Multipurpose Easement shall survive the expiration or extinguishment of the Multipurpose Easement through the doctrine of merger, provided that (a) if no "Trail Area" has been established under the Multipurpose Easement, then County may designate a Trail Area of sufficient size to accommodate a regional trail under generally applicable trail development standards as described in Section 2.1.1 of the Multipurpose Easement and provided further that (b) TPO shall be the beneficiary of the rights of "TPO" under such Multipurpose Easement that affect the Transportation Use and that apply to TPO's rights and responsibilities under this License. TPO agrees that it shall, at all times, cooperate fully with the County to accommodate any trail uses on the Excursion Spur adjacent to the Excursion Spur Facilities, and shall comply with all Railbanking Obligations. .

2.6 TPO or its designee shall have the right to use existing Tracks in the Excursion Spur for performing Excursion Rail Service as described in this Section.

2.7 TPO acknowledges and agrees that, consistent with Section 3, the Port may itself perform or grant rights to or enter into agreements with one or more third parties for certain non-freight, passenger transportation uses on the Excursion Spur (e.g., commuter rail service or other public transportation) during the Term of this License, that are not inconsistent with TPO's rights under this License. TPO shall cooperate with those parties authorized by the Port to ensure the accommodation of such passenger transportation uses on the Excursion Spur.

2.8 In addition to all other rights granted to TPO under this License, TPO shall have the right to utilize the Excursion Spur between milepost 0.0 in Woodinville and milepost 1.0 for all head and tail operations necessary for TPO's Rail Freight Service under the O & M Agreement, but shall have no right to operate other common carrier or contract freight rail service on the Excursion Spur.

Section 3. Port's Rights and Obligations.

3.1 Port shall have the right to use the Excursion Spur and to grant easements, licenses or permits affecting the Excursion Spur as long as such use, easements, licensees or permits do not unreasonably interfere with or create safety hazards for TPO's continuous and uninterrupted use of the Excursion Spur under the terms of this License. TPO shall cooperate with any entity granted such easements, licenses or permits to ensure accommodation of the uses authorized by such easements, licenses or permits so long as such uses do not unreasonably interfere with or

create safety hazards for TPO's continuous and uninterrupted use of the Excursion Spur under the terms of this License.

3.2 Port shall have the right to itself provide or grant rights to or contract with third parties for certain non-freight, passenger transportation uses on the Excursion Spur (e.g., commuter rail service or other public transportation) during the Term of this License so long as such uses do not unreasonably interfere with or create safety hazards for TPO's continuous and uninterrupted use of the Excursion Spur under the terms of this License.

3.3 Port, at Port's election, may perform a semi-annual joint inspection of the Excursion Spur by representatives of the Port upon reasonable advance notice for the first two (2) years, and annual joint inspections thereafter. Appropriate representatives from both Port and the TPO shall participate in and cooperate with the joint inspection(s) via hi-rail or other suitable means of railroad track inspection. The Port may perform more frequent inspections of the Excursion Spur, at its election, at any time during the term of this License so long as the following conditions are met: (1) Port provides advance notice to TPO in accordance with Section 7.5; (2) Port complies with all reasonable safety requirements of the TPO or as required by law applicable to the Excursion Spur; (3) Port obtains the appropriate authorizations from TPO to be on the designated portions of the Excursion Spur; (4) TPO will be allowed to participate in any inspection; and (5) the inspections are planned and coordinated with TPO to minimize any interference with TPO's operations on the Excursion Spur. The Port may request, at its sole discretion, that the inspections be performed by an authorized FRA inspector, whose findings shall be binding on the Port and the TPO.

3.4 In the event the TPO fails to or is unable to perform any work it is required to perform under this License, the Port may perform such work. Any such work by Port shall be performed in accordance with TPO's schedule and design, and the reasonable documented out-of-pocket cost thereof shall be reimbursed by TPO to Port in accordance with Section 10.1.

Section 4. Maintenance, Repair and Replacement Obligations.

4.1 General Maintenance, Repair and Replacement Obligations.

a) Except as otherwise provided in this License, TPO shall provide general maintenance and maintenance of way services, including without limitation, inspection, maintenance, repair, installation, alteration and replacement (as necessary) of all Tracks and Facilities, including without limitation, Automatic Warning Devices and grade crossings (including embankments, crossing panels or planking, pavement and curbing) to the extent the same are subject to governmental requirements in connection with grade crossings, located within the Port Property, including the Excursion Spur, in accordance with all applicable laws, rules and regulations, and in a condition reasonably suitable for TPO's intended use of the Excursion Spur.

b) Notwithstanding the provisions of subparagraph (a) above, any damage to or destruction of Facilities caused by a party or its employees, contractors, invitees or licensees shall be repaired or replaced at the sole cost of such party.

c) The TPO shall allow the Port to conduct inspections of the Excursion Spur as provided in Section 3.3.

4.2 Remedies.

a) In the event that TPO, as the responsible party for maintenance, repair and replacement of any item, fails to perform its maintenance obligations under this License, and such failure results in an imminent and substantial danger to human health or safety or to property, Port shall promptly notify TPO and the FRA. If TPO fails to perform its maintenance obligations, Port may perform such obligations immediately upon notifying TPO by telephone at the number set forth below. Port shall be entitled to full reimbursement from TPO within thirty (30) days after submission of a written Invoice therefor.

b) In the event that TPO or Port discovers, or receives notice of, any malfunction of, or damage to, Automatic Warning Devices, the discovering party shall promptly notify the other party by telephone at the telephone number set forth below, and TPO shall follow its usual response practices in the event of any malfunction of, or damage to, Automatic Warning Devices.

Port Duty Officer Telephone No.: _____

TPO Duty Officer Telephone No.: _____

4.3 Grade Crossing Reconstruction - The parties acknowledge that certain maintenance procedures may cause an increase in the surface elevation of grade crossings, and that TPO may, from time to time, need to perform additional maintenance or reconstruction work in order to prevent unsafe elevation differentials between the tracks used by TPO and other tracks. TPO will be responsible for any such maintenance and reconstruction work of any such grade crossings.

Section 5. Construction of Additions and Alterations.

5.1 Design and Construction Standards - The design and construction of any Additions and Alterations on the Excursion Spur shall comply with all applicable laws, rules and regulations. The party constructing Additions and Alterations shall follow customary safety procedures in accordance with good practice in the railroad industry and with applicable laws, rules and regulations and shall use reasonable efforts to perform work on Additions and Alterations at such times and in such manner as not to unreasonably interfere with, delay or endanger the equipment, Facilities or other facilities of the other party.

5.2 Design Review - In the course of designing Additions and Alterations, the constructing party shall reasonably notify and consult with the other party with respect to the design and construction of the Additions and Alterations. If requested by the other party, the constructing party shall deliver to the other party for review and comment copies of each set of plans for Additions and Alterations during the planning and design process. The other party shall notify the constructing party in writing within fifteen (15) days after its receipt of the plans as to whether it wishes to comment on the plans. If so, then the other party shall have the right to provide the constructing party, within thirty (30) days after the other party's receipt of any such

set of plans, written comments and suggestions regarding such plans. If the other party timely disapproves such plans, the parties shall meet within fifteen (15) days after disapproval to negotiate in good faith to develop plans acceptable to both. If the parties are unable to agree upon changes to the plans, either party may submit the matter to arbitration pursuant to Section 12. Upon completion of final plans, the constructing party shall give a copy of the final plans to the other party for review to ensure the incorporation of all agreed-upon changes to the plans.

5.3 Grade Separation Projects - In the event of a public grade separation project, TPO shall be solely responsible for any costs assessed thereunder. If TPO determines that a proposed grade separation project is desirable and is not feasible unless TPO contributes more than the costs that would be assessed to TPO under applicable laws, then Port agrees to consider in good faith the desirability of the proposed project and whether TPO's additional contribution should be reimbursed by Port; provided, however, that Port shall have no obligation to reimburse TPO for such additional contribution except to consider it in good faith as provided above.

Section 6. Execution Date and Term of the License.

6.1 The initial term of this License shall expire on the 10th anniversary of the Execution Date. So long as TPO is not in default with respect to a material term or condition of this License, TPO may elect to continue this License for one (1) additional renewal term of ten (10) years by giving Port written notice of such intent at least one (1) year prior to the expiration of the initial term. ("Term"). *Notwithstanding* the foregoing, this License shall terminate sixty (60) days after written notice by Port to TPO that TPO is in default with respect to a material term or condition of this License, which default has not been cured on or prior to such 60th day. In the event the O&M Agreement is terminated under Section 12.2 thereof but Excursion Rail Service is allowed to continue on the Corridor as authorized in Section 12.2, TPO may, with Port's written approval and so long as TPO is not in default under this License or the O & M Agreement, continue to provide Excursion Rail Service over the Excursion Spur.

6.2 TPO may terminate this License by giving Port not less than sixty (60) days' notice of termination. Upon such termination, TPO shall have no further right under this License to use the Excursion Spur.

6.3 TPO or its designee shall commence excursion passenger service as referred to in Section 1.6 of this License on the Excursion Spur no later than two years after the Execution Date. If TPO does not commence excursion passenger service by that time, or if TPO ceases excursion passenger service for more than two years, Port may terminate the right to provide excursion passenger service under this License by giving TPO not less than sixty (60) days notice of such termination. In such case, this License will be limited in scope to allow for only head and tail operations as referred to in Section 1.11.

Section 7. Reciprocal Access and Notice Rights.

7.1 Port and any entity to which it has granted rights in the Excursion Spur consistent with the terms of this license ("Port Grantees") may enter upon the Excursion Spur and/or use the Facilities located on the Excursion Spur, provided that the exercise of such rights by Port shall not unreasonably interfere with Excursion Rail Service of TPO or its designees.

7.2 Port may enter upon the Excursion Spur for the purposes set forth in Sections 3 and 4.

7.3 In the event the Port becomes aware of or is notified of an emergency of any kind, Port shall provide immediate notice of such events to TPO's duty officer at the contact number set forth in Section 4.2.(b).

7.4 Security personnel of either party in pursuit of a criminal suspect may enter upon the Excursion Spur for the purpose of apprehending the suspect.

7.5 Any entry by Port (or its contractors, invitees or licensees) or Port Grantees on any portion of the Excursion Spur within twenty feet (20') of the track center of the Excursion Spur shall, except for (a) scheduled commuter rail or other transit operations, (b) any use related to an existing or planned trail in the Excursion Spur, or emergencies when reasonable notice under the circumstances shall be given, be preceded by at least forty-eight (48) hours prior telephonic notice, and shall not enter upon the Excursion Spur until a valid work permit is issued by TPO and arrangements have been made for flagging.

7.6 Hazardous Materials may be brought by TPO onto the Excursion Spur only to the extent necessary for the operation of trains or when TPO is performing head and tail operations as authorized under Section 8 of this License, and in all events in compliance with all applicable Environmental Laws. Notwithstanding the foregoing, TPO shall not transport, bring onto, or store on the Excursion Spur or Port Property any THIs or PHIs.

7.7 In the event of leakage, spillage, release, discharge or disposal of any Hazardous Materials by TPO (including, without limitation, by explosion) on the Excursion Spur, TPO shall give Port prompt notice of such event, and at its sole cost and expense, clean or remediate the Excursion Spur to the standards required by law or by any governmental agency or public body having jurisdiction in the matter. Should any such leakage, spillage, release, discharge or disposal result in a fine, penalty, cost, or charge, TPO shall promptly and fully pay such fine, penalty, cost or charge. TPO shall be responsible for any such leakage, spillage, release, discharge or disposal by any third party it admits to the Excursion Spur. TPO shall indemnify, protect, defend, and hold harmless Port, its trustees, directors, officers, employees, agents, contractors, parent corporations and subsidiaries from and against any and all liabilities or claims for all loss, damage, injury, and death arising as a result of any such leakage, spillage, release, discharge or disposal. The provisions of this Section are in addition to and not in limitation of the provisions of hereof, and shall survive the termination of this License.

Section 8. Liability.

8.1 Hazardous Materials and Environmental Liability

a) If the performance of this License creates any solid or Hazardous Materials (e.g., the removal of any materials from the trains that require disposal), said Hazardous Materials shall be properly disposed of in accordance with federal, state and local laws, at the expense of the TPO. In no event shall the Port be identified as the generator of the Hazardous Materials. The TPO shall notify the Port of any such Hazardous Materials and the Port shall receive a copy of the results of any tests conducted on the wastes. The TPO shall hold harmless, indemnify and defend the Port from any claims, costs, damages, fines or other penalties arising from the

disposal of any Hazardous Materials created by the performance of this License, regardless of the absence of negligence or other malfeasance by TPO. This provision shall survive the termination or expiration of this License.

b) At no time during the term of this License shall the TPO or its designee, without first obtaining the written consent of the Port, maintain, treat, dispose of, store or have on the Excursion Spur and/or Port Property, or permit any other party to have, maintain, treat, dispose of, or store on the Excursion Spur and/or Port Property, anything which is classified by federal, state or local laws as Hazardous Materials or which requires a permit for the storage, treatment, disposal, handling or maintenance of it from any government authority. This excludes (1) transport or storage of materials by or on rail for authorized head and tail operations as long as said transport or storage complies with all Environmental Laws, including the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, *et seq.*, and Sections and of this License, and (2) petroleum products, lubricants, antifreeze and such other materials that may be normally consumed in the daily operations of a railroad. Any permits required in compliance with this provision and all federal, state or local laws shall be obtained at TPO's sole cost.

c) The TPO further agrees to indemnify and hold Port harmless from all costs, expenses, liabilities, demands, claims, causes of action at law or in equity whatsoever arising from its, or any of its contractors, agents or invitees', treatment, disposal, storage, maintenance or handling of any Hazardous Materials on the Excursion Spur and/or Port Property during the term of this License, including, but not limited to, the cost of clean-up, environmental damage assessments, defense and reasonable attorney's fees. The Port agrees to cooperate in the prosecution and collection of all costs, expenses, liabilities, demands, and claims, associated with any treatment, disposal, storage, maintenance or handling of any Hazardous Materials on the Excursion Spur and/or Port Property, including, but not limited to, the cost of clean-up, environmental assessments, defense and reasonable attorney's fees, prior to occupancy by the TPO, against any identified responsible party.

d) The provisions of Sections 8.2 through 8.6 shall in no way limit or reduce the application, enforceability or effect of this Section 8.1.

8.2 Assumption of Responsibility.

a) Except as otherwise expressly provided in this , TPO shall assume all Losses and will indemnify Port for all Losses which arise from TPO's presence on the Excursion Spur or on Port Property without regard to fault, failure, negligence, misconduct, malfeasance, or misfeasance of TPO or its employees, agents or servants.

b) The allocation of responsibility for Losses under this applies only to Losses proximately caused by incidents occurring on or adjacent to the Excursion Spur or Port Property, and arising out of TPO's presence on the Excursion Spur, or on Port Property.

c) All costs and expenses incurred in connection with the investigation, adjustment and defense of any claim or suit shall be included as part of the Loss for which responsibility is assumed under the terms of this including, without limitation, salaries or wages and associated benefits of, and out-of-pocket expenses incurred by or with respect to, employees of either party

engaged directly in such work and a reasonable amount of allocated salaries and wages of employees providing support services to the employees so engaged directly in such work.

8.3 Allocation of Responsibilities.

a) Invitees. Losses arising out of personal injury (including bodily injury and death) to, or property damage suffered by, an invitee of either party shall be the responsibility of and borne and paid solely by TPO, except as otherwise provided in Section 8.3 a) i. and Section 8.4. Consultants and contractors of TPO, and any person who is on, or has property on, a train or other rolling stock operated by or for the account of TPO or admitted to operate on the Excursion Spur (other than an employee of TPO engaged in performing duties for TPO), shall rebuttably be presumed to be an invitee of TPO.

(i) If an invitee of Port is negligent and causes Losses to TPO or Port, Port will be responsible for such Losses and will indemnify TPO.

b) Persons Other Than Invitees. Except as provided in Section 8.4, Losses arising out of personal injury (including bodily injury and death) to, or property damage directly suffered by, any person who is not an invitee of Port or TPO (including, without limitation, Port, TPO, employees of Port or TPO while engaged in the performance of their duties as an employee, persons in adjacent public streets (including public sidewalks), and trespassers), shall be the responsibility of and borne and paid exclusively by TPO.

c) Unenforceability. If any of the provisions of this Section 8.3 would otherwise be prohibited by or unenforceable under the laws of Washington State (including a determination by a final judgment of a Washington State court with jurisdiction that indemnification under the circumstances involved is against the public policy of Washington State), the indemnity provided by such provision shall be deemed to be limited to and operative only to the maximum extent permitted by law. Without limitation, if it is determined by a final judgment of Washington State court with jurisdiction that any law or public policy of Washington State prohibits the indemnification of a party for its own sole negligence in any instance covered by the provisions of this Section 8.3, those provisions shall be deemed to exclude the indemnification for such party's sole negligence but to permit full indemnification, as specified in this Section 8.3 if both parties were negligent.

8.4 Excluded Conduct - "Excluded Conduct" shall mean conduct by a supervisory level or higher employee of one of the parties, where such conduct is alleged in a properly filed complaint by a plaintiff or plaintiffs as the basis for an award of exemplary or punitive damages under Washington State law, and actually results in an award of exemplary or punitive damages by a jury after trial of the issues and exhaustion of judicial appeals which would permit the award of exemplary or punitive damages. Neither party shall be indemnified for any Loss resulting from its own Excluded Conduct, and in any such case such party shall be responsible for and bear the Loss in proportion to its relative degree of fault and be responsible for and bear all exemplary or punitive damages, if any, resulting from its Excluded Conduct. If a party asserts that the other was guilty of Excluded Conduct and denies liability for indemnification of the other party based thereon, the party asserting such Excluded Conduct shall have the burden of proof in establishing such conduct.

8.5 Scope of Indemnification --

a) In any case where a party is required under the provisions of this to bear a Loss, it shall pay, satisfy and discharge such Loss and all judgments that may be rendered by reason thereof and all costs, charges and expenses incident thereto, and such party shall forever indemnify, defend and hold harmless the other party and its commissioners, trustees, directors, officers, agents, employees, shareholders, parent corporations, subsidiaries and affiliated companies, or governmental entities from, against and with respect to any and all Losses which arise out of or result from the incident giving rise thereto.

b) TPO hereby waives, as respects the Port only, any immunity TPO may have under applicable workers' compensation benefit or disability laws (including but not limited to Title 51 RCW) in connection with the foregoing indemnity. Such waiver shall not prevent TPO from asserting such immunity against any other person or entities. TPO AND PORT AGREE AND ACKNOWLEDGE THAT THIS PROVISION IS THE PRODUCT OF MUTUAL NEGOTIATION.

c) TPO is the rail carrier employer under the Railroad Unemployment Insurance Act (45 U.S.C.A. §§ 351 et seq.), Railroad Retirement Act (45 U.S.C. §231 et seq.), Railway Labor Act (45 U.S.C. Sec. 151 et. seq.), Federal Employers Liability Act (45 U.S.C. Sec 51 et. seq.), and is the entity with responsibility for compliance with the common carrier obligations pursuant to (49 U.S.C. Sec. 10101 et. seq.), and any Federal rail safety legislation, that arise from TPO's use of the Excursion Spur. TPO shall indemnify, hold harmless and defend Port and County from any and all cost, expense, liability, claim, damage or other obligation that is asserted against the Port and/or the County pursuant to the statutes and regulations listed in this Section.

8.6 Procedure.

a) If any claim or demand (short of a lawsuit) shall be made by any person against an indemnified party under this Section 8, the indemnified party shall, within thirty (30) days after actual notice of such claim or demand, cause written notice thereof to be given to the indemnifying party, provided that failure to notify the indemnifying party shall not relieve the indemnifying party from any liability which it may have to the indemnified party under this except to the extent that the rights of the indemnifying party are in fact prejudiced by such failure. The indemnifying party shall have the right, at its sole cost and expense, to control (including the selection of counsel reasonably satisfactory to the indemnified party) or to participate in the defense of, negotiate or settle, any such claim or demand, and the parties agree to cooperate fully with each other in connection with any such defense, negotiation or settlement. In any event, the indemnified party shall not make any settlement of any claims or demands which might give rise to liability on the part of the indemnifying party under this without either providing the indemnifying party with a full release with respect to such liability or obtaining the prior written consent of the indemnifying party, which consent shall not be unreasonably withheld, conditioned or delayed.

b) In the event any lawsuit is commenced against either party for or on account of any Loss for which the other party may be solely or jointly liable under this License, the party sued shall give the other party timely written notice of the pendency of such action, and

thereupon the party so notified may assume or join in the defense thereof. If the party so notified is liable therefor under this License, then, to the extent of such liability, such party shall defend, indemnify and save harmless the party so sued from Losses in accordance with the liability allocations set forth in this License. Neither party shall be bound by any judgment against the other party unless it shall have been so notified and shall have had reasonable opportunity to assume or join in the defense of the action. When so notified and the opportunity to assume or join in the defense of the action has been afforded, the party so notified shall, to the extent of its liability under this License, be bound by the final judgment of the court in such action.

c) Subject to the provisions of Section 8.6a), on each occasion that the indemnified party is entitled to indemnification or reimbursement under this Section 8, the indemnifying party shall, at each such time, promptly pay the amount of such indemnification or reimbursement. If the indemnified party is entitled to indemnification under this and the indemnifying party does not elect to control any legal proceeding in connection therewith, the indemnifying party shall pay to the indemnified party an amount equal to the indemnified party's reasonable legal fees and other costs and expense arising as a result of such proceeding.

d) Any dispute between the parties as to the right to indemnification or the amount to which it is entitled pursuant to such right with respect to any matter shall be submitted to arbitration pursuant to Section 12 of this License, except if the binding arbitration requirement is no longer in force as provided for in Section 12.1 of this License.

8.7 Compliance With Laws - Both parties shall comply with all applicable federal state and local laws and regulations, and all applicable rules, regulations or orders promulgated by any court, agency, municipality, board or commission. If any failure of either party to comply with such laws, regulations, rules or orders in respect to that party's use of the Excursion Spur results in any fine, penalty, cost or charge being assessed against the other party, or any Loss, the party which failed to comply agrees to reimburse promptly and indemnify, protect, defend (with counsel reasonably acceptable to the indemnified party) and hold harmless the other party for such amount.

8.8 Delay/Interruption of Service - Port shall not be held liable for any delay or interruption to the trains, locomotives or cars of TPO unless due to Excluded Conduct or except as otherwise provided for in Section 8.3 a) i.

8.9 No Limitation on Risk Allocation - The provisions of this Section 8 shall apply notwithstanding the provisions of Section 9. In no event shall the indemnification provisions of this Section 8 be limited to the insurance coverage required under Section 9.

8.10 Statutory Defenses - All statutory defense and limitations applicable to Port shall be retained by Port with respect to parties other than TPO, and none are intended to be waived with respect to parties other than TPO by Port under this License.

8.11 Survival - The provisions of this Section 8 shall survive the termination or expiration of this License.

Section 9. Insurance.

9.1 Freight Rail Service Coverage - TPO shall obtain and maintain freight service general liability insurance written on an "occurrence" basis, with minimum limits of Five Million Dollars (\$5,000,000) per occurrence. The Port and the County shall be listed as additional insureds for ongoing and completed operations. Coverage shall include contractual liability coverage with no exclusions relative to rail operation. Coverage for punitive damages shall be included to the extent such coverage is permitted under Washington State law. Insurance shall be placed with a company having a current A. M. Best's Insurance Guide Rating of at least "A" or equivalent, and admitted as an insurer by the Washington State Office of the Insurance Commissioner. TPO may self-insure to an amount not to exceed One Million Dollars (\$1,000,000) provided that total coverage limits (self-insurance plus excess liability insurance) are at least to the amounts stated within this Section; provided further, that this sentence shall not inure to the benefit of TPO's successors or assigns without the reasonable written consent of the Port and County.

a) The policy required under this Section 9.1 shall include general liability property damage and bodily injury coverage for operation of Freight Rail Service, *provided*, that such Freight Rail Service shall be limited to head and tail operations on the Excursion Spur, along with any related operation, maintenance, and construction on or about the Excursion Spur and Port Property by the TPO. If the policy excludes maintenance and construction on or about the Excursion Spur and Port Property, a separate railroad protective liability policy shall be issued in the name of the Port and the County with minimum limits of Two Million Dollars (\$ 2,000,000) per occurrence for bodily injury and property damage, and Five Million Dollars (\$ 5,000,000) in the aggregate.

b) The policy required under this Section 9.1 shall also include pollution coverage whether incurred during operations or during maintenance or construction. If the general liability policy contains pollution exclusion, a separate pollution policy shall be purchased with minimum limits of Three Million Dollars (\$3,000,000) per occurrence, and Five Million Dollars (\$5,000,000) in the aggregate.

c) The policy limits required under this Section 9.1 shall be adjusted by the parties every three (3) years to reflect industry standards, liability claim trends and market conditions.

9.2 Excursion Rail Service Coverage - TPO shall obtain and maintain general liability insurance with an excursion/passenger endorsement, and written on an "occurrence" basis, with minimum limits of Twenty-five Million Dollars (\$25,000,000) per occurrence and in the aggregate for all Excursion Rail Service in which total passenger and crew count is 50 or less; and Fifty Million Dollars (\$50,000,000) per occurrence and in the aggregate for all Excursion Rail Service in which total passenger and crew count exceeds 50. The Port and County shall be listed as additional insureds for ongoing and completed operations. Coverage shall include contractual liability coverage with no exclusions relative to rail operation. Coverage for punitive damages shall be included to the extent such coverage is permitted under Washington State law. Insurance shall be placed with a company having a current A. M. Best's Insurance Guide Rating of at least "A" or equivalent, and admitted as an insurer by the Washington State Office of the Insurance Commissioner. TPO may self-insure to an amount not to exceed Five Million Dollars (\$5,000,000) provided that total coverage limits (self-insurance plus excess liability insurance)

are at least to the amounts stated within this Section; provided further, that this sentence shall not inure to the benefit of TPO's successors or assigns without the reasonable written consent of Port and County.

a) The policy required under this Section 9.2 shall include general liability property damage and bodily injury coverage for operation of Excursion Rail Service along with any related operation, maintenance, and construction, on or about the Excursion Spur and Port Property by the TPO. If the policy excludes maintenance and construction on or about the Excursion Spur and Port Property, a separate railroad protective liability policy shall be issued in the name of the Port and County with minimum limits of Two Million Dollars (\$ 2,000,000) per occurrence for bodily injury and property damage, and Six Million Dollars (\$ 6,000,000) in the aggregate.

b) The policy required under this Section 9.2 shall also include pollution coverage whether incurred during operations or during maintenance or construction. If the general liability policy contains pollution exclusion, a separate pollution policy shall be purchased with minimum limits of Three Million Dollars (\$3,000,000) per occurrence, and Six Million Dollars (\$6,000,000) in the aggregate.

c) The policy limits required under this Section 9.2 shall be adjusted by the parties every three (3) years to reflect industry standards, liability claim trends and market conditions.

9.3 Automobile Coverage - TPO shall maintain general automobile liability insurance of not less than One Million Dollars (\$1,000,000) per occurrence, combined single limit for bodily injury and property damage using ISO Form CA 00 01 (or equivalent). Coverage shall extend to all owned, non-owned, hired, leased, rented, or borrowed vehicles. The policy shall contain a waiver of subrogation in favor of the Port and County.

9.4 Evidence of Insurance - Prior to the Execution Date, and annually thereafter, TPO shall forward evidence of insurance as required in this Section including evidence of the Port's and the County's status as additional insureds for the Freight Rail Service and Excursion Rail Service policies; and a written copy of the waiver of subrogation for the automobile liability policy. Upon request from the Port, TPO shall forward certified copies, within 30 days of the request, of any binders, policies, and declarations of insurance that is required by this License.

9.5 No Port Deductible - No policies obtained by TPO for this License shall contain a deductible obligation for the Port or County. If the policy is issued with a deductible option, the TPO shall be liable for all deductibles, as well as any applicable allocated loss adjustment expenses if applicable. All costs incurred by a program of self-insurance, including self-insurance as identified in Sections 9.1 and 9.2 are to be borne by TPO.

9.6 Additional Documentation - Self Insurance - If self-insurance is utilized for a portion of the coverage permitted in Sections 9.1 and 9.2, evidence must be provided to the Port and County of the TPO's net worth, a copy of the most recent audited financials, and a written description of the self-insurance program. This must be submitted with the other documentation required in Section 9.4.

9.7 Applicability of Workers' Compensation - TPO is fully responsible for ascertaining the applicability of Title 51 Industrial Insurance, of the Revised Code of Washington, as well any federal laws that pertain to workers compensation coverage for railroad employees and operators, such as the Federal Employers' Liability Act (FELA). TPO shall comply with all required workers compensation requirements whether through purchase of commercial insurance or as a qualified self insurer. In the event FELA is the applicable coverage under this License, TPO shall provide the Port with evidence of coverage. An insurance certificate shall be additionally required to show evidence of other applicable worker compensation coverage.

a) In the event Title 51 of the Revised Code of Washington applies to this License, TPO shall submit a current employer liability certificate as issued by the Washington Department of Labor and Industries that shows the status of TPO worker compensation account prior to the Execution Date of this License. TPO shall list here their UBI Number 602-672-764 and their State Worker Compensation Account Number _____. TPO shall also provide the Port and the County with Washington State Stop Gap employers' liability insurance. This shall be in an amount of One Million Dollars (\$1,000,000) per accident and One Million Dollars (\$1,000,000) per disease using ISO CG 04 42 11 03 or equivalent. This coverage may be provided by endorsing the primary general liability policies identified in Sections 9.1 and 9.2. To the extent applicable, there shall be no exclusions relative to railroad workers or workers covered under the Federal Employers' Liability Act.

9.8 Primary Insurance - TPO's insurance shall be primary with respect to its obligations under this License and with respect to the interests of Port and County as additional insureds. Any other insurance maintained by an additional insured shall be excess of the coverage herein defined as primary and shall not contribute with it. In addition to the specific requirements in this License to name the Port and County as additional insureds on certain types of insurance, TPO shall also include Port and County as additional insureds on any other policy it maintains that provides coverage related to the Excursion Spur.

9.9 Maintaining Insurance Requirements - TPO's insurance requirements shall be maintained for the full term of this License and shall not be permitted to expire or be canceled or materially changed. Each such insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or limits except after thirty (30) days' prior written notice has been given to each insured and additional insured, including the Port and County.

9.10 Statutory Defenses - All statutory defenses and limitations applicable to TPO shall be retained by TPO with respect to parties other than the Port and the County, and none are intended to be waived by TPO with respect to parties other than the Port and the County by the acquisition of insurance by TPO or under this License.

9.11 Failure to Maintain Insurance - A failure of TPO to maintain the insurance required by this Section 9 shall not relieve TPO of any of its liabilities or obligations under this License.

9.12 Waiver of Subrogation - Every policy of insurance required under this License to be held by TPO shall include a waiver of all rights of subrogation against the Port and the County.

9.13 Other Insurance - TPO shall require that all of its contractors and sub-subcontractors carry a railroad protective liability policy with minimum limits of Two Million Dollars (\$2,000,000) per occurrence for bodily injury and property damage, and with an aggregate policy limit of no less than Five Million Dollars (\$5,000,000). Said policy shall name the Port and County as additional insureds.

Section 10. Compensation and Billing.

10.1 Invoices - Any Invoice or Invoices submitted to the parties under this License ("Invoice or Invoices") must be itemized with a detailed description of the work performed, the date of such work, the person performing such work, the time expended and the associated hourly billing rate or charge for such work, and any reimbursable expenses (including, without limitation, the cost of materials used) incurred in the performance of the work. The party requesting reimbursement shall certify that it has actually incurred the expenses set out in its Invoice. Invoices for reimbursable expenses may not exceed the out-of-pocket expense for such items. Invoices shall be paid within thirty (30) days after receipt thereof by the payor. If a party disputes any items on an Invoice, that party may deduct the disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deductions, if any, shall be documented to the other party within thirty (30) days after receipt of the Invoice. Once documentation is given for the disputed amounts, and accepted by the paying party, the disputed amounts shall be paid by the paying party with fifteen (15) days after receipt of the documentation. No Invoice shall be submitted later than one hundred twenty (120) days after the last day of the calendar month in which the reimbursable expense or cost covered thereby is incurred.

10.2 Audit - So much of the books, accounts and records (except for privileged or confidential records) of each party hereto as are related to the subject matter of this License shall at all reasonable times be open to inspection and audit by the authorized representatives and agents of the parties. All accounting records and other supporting papers shall be maintained for a minimum of three (3) years from the date thereof. If work relating to this License is funded in whole or in part by a federal grant, the Comptroller General of the United States and authorized representatives of the federal agency furnishing the grant shall have the right to examine and audit such books, accounts, and records in accordance with applicable federal laws and regulations.

10.3 Supporting Documentation - Upon request, a party disputing the accuracy of any Invoice shall be entitled to receive from the invoicing party copies of such supporting documentation and/or records as are kept in the ordinary course of the invoicing party's business and which are reasonably necessary to verify the accuracy of the Invoice as rendered.

10.4 As compensation for the rights granted under this License (as well as for the rights granted under the O&M Agreement), TPO shall pay the Port the fees described in Section 9.4 of the O&M Agreement.

Section 11. Coordination Committee - Port and TPO shall establish a Coordination Committee and shall invite the County to participate. The Coordination Committee shall consist of at least two (2) representatives of each party, and shall be a forum for the parties to share

information, discuss matters submitted by one party to the other party for review and/or approval, and seek resolution of any issues between the parties with respect to this License. The Coordination Committee shall meet regularly (in person or telephonically) and also as necessary to address issues between the parties that require prompt resolution.

Section 12. Binding Arbitration.

12.1 Controversies Subject to Arbitration - Any and all claims, disputes or controversies between Port and TPO arising out of or concerning the interpretation, application, or implementation of this License that cannot be resolved by the parties through the Coordination Committee or by negotiations shall be submitted to binding arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules, except as otherwise provided in this Section 12. If the AAA discontinues promulgation of the Commercial Arbitration Rules, the parties shall use the AAA's designated successor rules, and if the AAA does not designate successor rules, the parties shall agree on other rules. The judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, the requirement for binding arbitration shall not apply to any dispute wherein the Port and TPO are included, either in the initial complaint or through subsequent pleadings, in a lawsuit brought by a third party. In such case, the dispute may be litigated in court. Further, the requirement for binding arbitration shall not apply if the Port assigns its rights and obligations under this License to the County or conveys its right, title and interest in the Excursion Spur to the County.

12.2 Selection of Arbitrator - In the event a claim, dispute or controversy arises, either party may serve a written demand for arbitration upon the other party. If the claim, dispute or controversy is not resolved by the parties within thirty (30) days after the service of the demand, the matter shall be deemed submitted to arbitration. If within forty (40) days after service of the demand, the parties have not selected a single arbitrator, each party shall within an additional ten (10) days thereafter select an arbitrator. In such case, if either party has not selected an arbitrator within ten (10) days after receipt of notice that the other party has selected an arbitrator, the arbitrator selected by the other party shall arbitrate the claim, dispute or controversy. The two selected arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree upon the third arbitrator within ten (10) days of the selection of the two selected arbitrators, the AAA shall select the third arbitrator. The arbitrator(s) shall be disinterested.

12.3 Expedited Arbitration Schedule.

a) In the event either party reasonably finds that the issues of any claim, dispute or controversy are likely to directly, imminently, materially and adversely affect human health or safety, either party may request, in the arbitration demand delivered pursuant to Section 12.2, an expedited arbitration procedure as set forth in this Section 12.3 solely for the purpose of obtaining a provisional remedy that by law or in equity could be imposed in a court proceeding against a rail carrier subject to the jurisdiction of the Surface Transportation Board (e.g., temporary restraining order, preliminary injunction or injunction).

b) Within five (5) days after service of a demand for expedited arbitration, the parties shall agree on an arbitrator. If the parties fail to agree on an arbitrator within such five (5)

day period, each party shall within two (2) days thereafter select an arbitrator. In such case, if either party has not selected an arbitrator within two (2) days after receipt of notice that the other party has selected an arbitrator, the arbitrator selected by the other party shall arbitrate the claim, dispute or controversy. Otherwise, the two selected arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree upon the third arbitrator within two (2) days of the deadline for the selection of the two selected arbitrators, the AAA shall select the third arbitrator. The arbitrator(s) shall be disinterested.

c) The expedited arbitration hearing shall commence no later than ten (10) days after service of a demand for expedited arbitration and shall be concluded on the same day. The arbitration decision shall be rendered by the arbitrator(s) in writing on or before the day following the arbitration hearing.

d) Prior to rendering any decision, the arbitrator must find that the issues of the claim, dispute or controversy are likely to directly, imminently, materially and adversely affect human health or safety. In the event the arbitrator finds that the foregoing criteria have not been met, the proceeding shall be dismissed without prejudice and the parties shall proceed with the arbitration procedure and schedule set forth in Sections 12.1 and 12.2; provided, however, that no new demand for arbitration need be served by the party demanding arbitration.

12.4 Pending Resolution - During the pendency of such arbitration proceedings, the business and the operations to be conducted, and compensation for service under this License, to the extent that they are the subject of such controversy, shall continue to be transacted, used and paid in the manner and form existing prior to the arising of such controversy, unless the arbitrator shall make a preliminary ruling to the contrary.

12.5 Cost of Arbitration - Each party solely shall bear the attorneys' fees, costs and expenses incurred by it in connection with such arbitration; provided, however, the arbitrator shall have the power to award attorneys' fees and costs to either party if the arbitrator determines in its reasonable discretion that the position of the other party to the arbitration was frivolous.

Section 13. Miscellaneous Provisions.

13.1 Binding Successors; Assignment - This License shall be binding upon, and inure to the benefit of, the parties hereto and their respective permitted successors and assigns, except that TPO may not assign its rights and obligations under this License without the prior written consent of the Port, which consent may not be unreasonably withheld, denied, delayed or conditioned. Any assignment, encumbrance or other transfer in violation of the foregoing shall be void. Port may assign its rights and obligations under this License freely. If Port desires to assign its rights and obligations under this License or to convey its right, title and interest in the Excursion Spur, then TPO and the potential assignee or acquiring entity shall negotiate in good faith to revise the terms of this License to address their respective interests.

13.2 Notices - Except as otherwise expressly provided in this License, all notices and other communications under this License shall be in writing and shall be deemed to have been duly given (a) on the date of delivery, if delivered personally to the party to whom notice is given, or (b) at the earlier of actual receipt or the third business day following deposit in the United States

mail, postage prepaid. Notices and other communications shall be directed to the parties at the addresses shown below. A party may change its person designated to receive notice, or its address from time to time by giving notice to the other party in accordance with the procedures set forth in this Section.

Port: Port of Seattle
P. O. Box 1209
Real Estate Division
Seattle, WA 98111
Attention: Joe McWilliams
Telephone No. 206-728-3722

If delivered:
Port of Seattle
2711 Alaskan Way
Seattle, WA 98121

TPO: GNP Rly. Inc.
403 Garfield Street #20
Tacoma, WA 98444
Attention: Thomas Payne
Telephone No. 253-459-9702

13.3 Headings - The section and subsection headings in this License are for convenience only and shall not be used in its interpretation or considered part of this License.

13.4 Integration, Amendment, and Waiver - This License controls all the rights and obligations of TPO and Port as to the operation of the Excursion Rail Service on the Excursion Spur. The O&M Agreement controls all the rights and obligations of TPO and Port as to the operation of freight rail service and Excursion Rail Service on the Corridor. This License is the entire agreement, and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties concerning the subject matter hereof. No supplement, modification, or amendment of this License shall be binding unless executed in writing by both of the parties. No waiver of any provision of this License shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

13.5 Counterparts - This License may be executed in any number of counterparts, and by different parties in separate counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Facsimile signatures shall be deemed original for all purposes.

13.6 Governing Law - This License shall be construed and interpreted in accordance with the laws of Washington State and/or federal law where applicable, and the parties shall be entitled to all remedies in law and equity as provided for thereunder.

13.7 Time of Essence - Time is of the essence of each and every provision of this License.

13.8 Changes to Port Property - Any parcel transferred by the Port to an unaffiliated person or entity for purposes other than rail operations or trail use that does not contain any facilities used in connection with the rail operations intended by this License shall be deemed removed from the Excursion Spur or Port Property as applicable.

13.9 Not for the Benefit of Others - This License and each and every provision herein are for the exclusive benefit of the parties to this License and County and not for the benefit of any third party, except County. Nothing herein shall be construed to create or increase any right in any third party to recover by way of damages or otherwise against either of the parties to this License.

13.10 Attorneys' Fees - If any legal action or any arbitration or other proceeding is brought for the enforcement or interpretation of this License, or because of any alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this License, the prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs in connection with that action or proceeding in addition to any other relief to which it or they may be entitled.

13.11 TPO Operating Data - In the event of termination of TPO's operations, TPO shall, at the Port's request and expense, provide to the Port or the Port's designee all data associated with TPO's operations on the Excursion Spur, including, but not limited to, car tracing, identification and rates, and accounting records. Provided, that in the event TPO's operations terminate as a result of TPO transferring its rights to another operator, with the Port's consent, such operating data shall be transferred by TPO to its successor at TPO's cost or that of TPO's successor.

13.12 Removal of TPO's Property - Upon termination of this License, TPO shall have ninety days from the date of termination to remove all of TPO's personal property and trade fixtures, so long as such removal does not damage the Excursion Spur or Port Property. If damage results to the Excursion Spur or to Port Property as a result of TPO's activities under this Section 13.12, TPO shall, at its sole expense, restore or reimburse the Port for the cost to restore the Excursion Spur or Port Property to as good condition as they were prior to TPO's removal activities, normal wear and tear excepted. If TPO fails to remove any of the personal property and trade fixtures within the time authorized under this Section, the Port may remove TPO's property at TPO's expense, subject to offset by any net proceeds received by the Port from the sale of TPO's property. TPO's obligation to (i) restore the Port for any damage to the Excursion Spur or Port Property, and (ii) repay the Port for the cost of any property removal shall survive the termination of this License. All other property or improvements placed on the Excursion Spur or Port Property by TPO during the term of the License that do not constitute personal property or trade fixtures, shall become the property of the Port upon termination of this License.

13.13 Railbanking Requirements in Event of Abandonment - If TPO or any successor, assignee or designee of TPO (each an "Abandonment Applicant") elects to seek authority from the Surface Transportation Board or any successor agency to abandon or discontinue its freight common carrier obligation over some or all of the Corridor, then such Abandonment Applicant shall consent to a request by any or each of County, the Port, the Central Puget Sound Regional Transit Authority or the successor or designee of any of them (each a "Trail Use Applicant") for the implementation of interim trail use in accordance with Section 8(d) of the National Trails System Act, codified at 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29, as such provisions may be amended or interpreted by binding judicial or administrative authority. The Abandonment Applicant shall cooperate with any or each Trail Use Applicant in any application for authority to implement interim trail use over all or any portion of the Property on which the Abandonment Applicant seeks authority to abandon or discontinue its freight common carrier obligation. If TPO or any successor, assignee or designee of TPO ceases operations on the Corridor but fails within a reasonable period of time to (a) seek abandonment authority, and (b) respond to inquiries from any potential Trail Use Applicant as to the status of its operations, any Trail Use Applicant may elect to seek authority from the Surface Transportation Board or any successor authority for a third-party abandonment and interim trail use over some or all of the Corridor on which operations have ceased. TPO and any successor, assignee or designee shall not oppose any such action by a Trail Use Applicant.

13.14 Railbanking Conditions - As part of the approvals for railbanking the Excursion Spur, the STB conditioned its approval concerning salvage activities and archaeological remains, which conditions must be complied with by TPO. TPO agrees that:

- (a) Prior to beginning any salvage activities,
 - (i) To consult with Washington Department of Ecology ("WDE") regarding possible impacts of abandonment activities on wetlands located along the line and to ensure compliance with the Clean Water Act's National Pollution Discharge Elimination System ("NPDES") permitting requirements, and
 - (ii) To consult with the Army Corps of Engineers ("Corps") regarding possible impacts of abandonment activities to water bodies and wetlands, and to ensure compliance with Corps permitting requirements; and
- (b) In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, TPO shall immediately cease all work and jointly with Port and County notify the STB's Section of Environmental Analysis ("SEA"), interested Federally recognized tribes and the Washington State Historic Preservation Officer ("SHPO"), pursuant to 36 CFR 800.13(b). SEA shall then consult with the SHPO, interested Federally recognized tribes, TPO, Port and County, and any other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

13.15 Encumbrances - TPO may pledge or otherwise encumber its rights under this license to secure its obligations under any loan agreement or similar or related document; provided, however, that notice of such pledge is provided to Port, and that such pledge or other encumbrance shall be subject to and subordinate to the rights of the Port and its assigns as licensor hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this License effective as of the Execution Date.

PORT OF SEATTLE
a Washington municipal corporation

By: _____
Name: Tay Yoshitani
Title: Chief Executive Officer

GNP RLY. INC.
a Washington corporation

By: _____
Name: _____
Title: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On _____, 200__, before me, a Notary Public in and for said County and State, personally appeared _____, of the Port of Seattle, a Washington municipal corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

(SEAL)

Printed Name

NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On _____, 200__, before me, a Notary Public in and for said County and State, personally appeared _____, of GNP Rly. Inc., a Washington corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

(SEAL)

Printed Name

NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____

EXHIBIT G
Form of Assignment and Assumption of
Third Party Leases, Licenses, and Contracts

**ASSIGNMENT AND ASSUMPTION OF
THIRD PARTY LEASES, LICENSES, AND CONTRACTS**

THIS ASSIGNMENT AND ASSUMPTION OF THIRD PARTY LEASES, LICENSES, AND CONTRACTS (this "Assignment") is executed on this ____ day of _____, 2016, by and between the Port of Seattle, a municipal corporation of the State of Washington ("Assignor"), and Snohomish County, a political subdivision of the State of Washington ("Assignee").

RECITALS

A. Assignor and Assignee are parties to that certain Real Estate Purchase and Sale Agreement dated as of _____, 2016 (the "Agreement"), pursuant to which Assignor has agreed to sell and Assignee has agreed to buy the real property legally described in Exhibit A of the Agreement (the "Property").

B. Assignor is a party to the Third Party Leases, Licenses, and Contracts as defined and described in the Agreement and in the attached Schedule 1.

C. Pursuant to the Agreement, Assignor wishes to assign, and Assignee wishes to assume, all of Assignor's right, title and interest in and to the Third Party Leases, Licenses, and Contracts.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and conditions contained in this Assignment, the parties agree as follows:

1. **Assignment of Third Party Leases, Licenses, and Contracts.** Assignor hereby assigns and transfers to Assignee all of Assignor's right, title, and interest in and to the Third Party Leases, Licenses, and Contracts identified in Schedule 1, attached hereto and incorporated herein by this reference. If after the date of this Assignment the Parties discover any additional Third Party Leases, Licenses, and Contracts encumbering the Property, each shall reasonably cooperate with the other to assign such agreements consistent with the terms of the Agreement and this Assignment.

2. **Assumption of Third Party Leases, Licenses and Contracts.** To the extent assigned as set forth above, Assignee hereby assumes all of Assignor's duties and obligations under the Third Party Leases, Licenses, and Contracts arising and accruing from and after the date of this Assignment, and Assignee further succeeds to the interests of Assignor under the

Third Party Leases, Licenses, and Contracts.

3. Indemnification.

3.1 Indemnification by Assignor. Assignor agrees to fully, completely and unconditionally indemnify and hold Assignee harmless from and against all claims, losses, expenses, liabilities, damages, including without limitation, interest and penalties, attorneys' fees, and all amounts paid in settlement of any claim, that may be asserted against Assignee, or which Assignee may incur or suffer and that arise under a Third Party Lease, License, or Contract prior to the date of closing of the transaction contemplated in the Agreement.

3.2 Indemnification by Assignee. Assignee agrees to fully, completely and unconditionally indemnify and hold Assignor harmless from and against all claims, losses, expenses, liabilities, damages, including without limitation, interest and penalties, attorneys' fees, and all amounts paid in settlement of any claim, that may be asserted against Assignor, or which Assignor may incur or suffer and that arise under a Third Party Lease, License, or Contract after the date of closing of the transaction contemplated in the Agreement.

4. Binding Effect. This Assignment shall be binding on and inure to the benefit of the Assignor, Assignee, and their respective successors in interest and assigns.

5. Governing Law. This Assignment shall be construed and enforced in accordance with the laws of the State of Washington. Venue for any action regarding this Assignment shall be the Superior Court in and for Snohomish County.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment the day and year first above written.

ASSIGNOR:

The Port of Seattle, municipal corporation of the State of Washington

By _____
Name: _____
Title: _____

ASSIGNEE:

SNOHOMISH COUNTY, a political subdivision of the State of Washington

By _____
Name: _____
Title: _____

[The remainder of this page is intentionally left blank.]

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the person who signed as _____ of THE PORT OF SEATTLE, a municipal corporation of the State of Washington, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company for the uses and purposes therein mentioned, and on oath stated that _____ was duly elected, qualified and acting as said officer or member of the municipal corporation, and that _____ was authorized to execute said instrument on behalf of said municipal corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

(Signature of Notary)

(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State
of Washington, residing at _____.
My appointment expires: _____.

[illegible]

On this _____ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the person who signed as _____ of SNOHOMISH COUNTY, the political subdivision of the State of Washington that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company for the uses and purposes therein mentioned, and on oath stated that _____ was duly elected, qualified and acting as said officer or member of the county, and that _____ was authorized to execute said instrument on behalf of said county.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

(Signature of Notary)

(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State
of Washington, residing at _____.
My appointment expires: _____.

Schedule 1
to
Assignment and Assumption of Third Party Leases, Licenses, and Contracts

Schedule of Third Party Leases, Licenses, and Contracts

[See attached.]

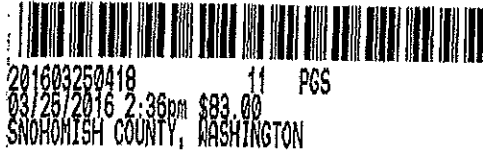
EXHIBIT D

TR 005.000 CL

1098613

Return Address:

Snohomish County Property Manager
3000 Rockefeller Avenue
Mail Stop 404
Everett, WA 98201-4046



No. 8644761 3/25/2016 2:22 PM 10.00

Thank you for your payment.

PAT

Document Title(s) (or transactions contained therein):

1. Quit Claim Deed

Reference Number(s) of Documents assigned or released: N/A

(on page ___ of documents(s))

Grantor(s) (Last name first, then first name and initials):

1. Port of Seattle, a municipal corporation of the State of Washington

Grantee(s) (Last name first, then first name and initials):

1. Snohomish County, a political subdivision of the State of Washington

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

Snohomish County: Ptn BNSF Railway Company's Snohomish to Woodinville, Washington Branch Line right-of-way lying within the following:
SW ¼ Sec.18,T28N,R.6E; LOT 4 & 5, BLK 2, Snohomish City Eastern Part, VOL 1 PG 7; GOVT LOT 1 & 2, & NW ¼ SEC19,T28N,R6E; NE ¼ & SE ¼ SEC24,T28N,R5E; NE ¼ SEC25,T28N,R5E; GOVT LOT 1, 2, 3, 5 & 6 SEC30, T28N,R6E; GOVT LOT 3, 4, 8 & SW ¼ & NW ¼ SEC31,T28N,R6E; PTN TR 139 Plat of Cathcart; GOVT LOT 4, 5, 6 & 7 SEC6,T27N,R6E; GOVT LOT 1, 2, 3, & 4 & SW ¼ of SEC7,T27N,R6E; NE ¼ of SEC12,T27N,R5E; GOVT LOT 2, 3 & 4 & NW ¼ of SEC18,T27N,R6E; GOVT LOT 1 & 2 SEC19,T27N,R6E; NE ¼, SW ¼, & SE ¼ of SEC24,T27N,R5E; NW ¼ & SW ¼, SEC25,T27N,R5E; SEC26,T27N,R5E; NW ¼ of SEC35,T27N,R5E; NE ¼, SE ¼, SW ¼ SEC 34,T27N,R5E.

Assessor's Property Tax Parcel/Account Number

0000000000100

QUIT CLAIM DEED

The Grantor, PORT OF SEATTLE, a municipal corporation of the State of Washington, for and in consideration of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration paid in hand, hereby conveys and quitclaims to the Grantee, SNOHOMISH COUNTY, a political subdivision of the State of Washington, certain real property located in Snohomish County, Washington, as more fully described on Exhibit A (the "Property"), subject to matters of record, and together with any interest therein which the Grantor may hereafter acquire.

DATED March 17, 2016.

PORT OF SEATTLE, a municipal corporation of the
State of Washington

By Theodore J. Fick
Name: Theodore Fick
Title: Chief Executive Officer

SNOHOMISH COUNTY:
ACCEPTED AND APPROVED

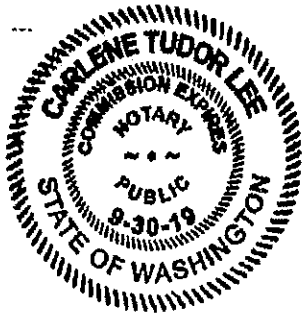
Marcia King 3/24/16
Snohomish County Executive

[The remainder of this page is intentionally left blank.]

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 17th day of March, 2016, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Theodore J. Fick, to me known to be the person who signed as Chief Executive Officer of the PORT OF SEATTLE, a municipal corporation of the State of Washington, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned, and on oath stated that he was duly elected, qualified and acting as said officer or member of the municipal corporation, and that he was authorized to execute said instrument on behalf of said municipal corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.



Carlene Tudor Lee
(Signature of Notary)

Carlene Tudor Lee
(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State
of Washington, residing at Seattle
My appointment expires: 9-30-19

EXHIBIT A
SNOHOMISH COUNTY

DESCRIPTION OF PROPERTY

All that portion of BNSF Railway Company's (formerly Northern Pacific Railway Company) City of Snohomish (MP 38.3) to Snohomish County King County line (MP 26.384), Washington Branch Line right of way, varying in width on each side of said Railway Company's Main Track centerline, as now located and constructed upon, over and across Snohomish County, Washington, more particularly described as follows, to-wit

That portion of that certain 60.0 foot wide Branch Line right of way being 30.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across State Street, as said street is shown on plat of Snohomish City Eastern Part, recorded as Instrument No. 187204125001 in Book 1, Page 7, records of the Snohomish County, Washington Auditor, lying southerly of the Easterly prolongation of the centerline of vacated Commercial Street, as said Commercial Street is shown on said plat; also,

That portion of the Southerly half of vacated Commercial Street as said street is shown on the plat of Snohomish City Eastern Part, recorded as Instrument No 187204125001 in Book 1, Page 7, records of the Snohomish County, Washington Auditor, vacated by ordinance No. 354 of the City of Snohomish, State of Washington, passed May 16, 1911, described as follows:

Beginning at the northeast corner of Lot 5, Block 2 of said plat of Snohomish City Eastern Part, thence Westerly, along the northerly line of said Lot 5, a distance of 20 feet, more or less, to a point 50 feet distant westerly, when measured at right angles from the centerline of State Street, as said State Street is shown on said plat; thence Northerly, along a line 50 feet westerly from the center line of said State Street, 30 feet, more or less to the centerline of said Commercial Street; thence Easterly, along said centerline of Commercial Street, 20 feet, more or less to the northerly prolongation of the east line of said Lot 5, thence Southerly, along said northerly prolongation, 30 feet, more or less, to Point of Beginning; also,

Lots 4 and 5, of Block 2 as shown on plat of Snohomish City Eastern Part, recorded as Instrument No 187204125001 in Book 1, Page 7, records of the Snohomish County, Washington Auditor; also,

That portion of that certain 50.0 foot wide Branch Line right of way being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 4, Section 18, Township 28 North, Range 6 East, W. M., bounded Northeasterly by the Southwesterly Bank of the Snohomish River, and bounded Southwesterly by a line parallel with and distant 50.0 feet Northeasterly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed, together with all right, title and interest if any, to accommodate said railway company's facilities and operations over and across the Snohomish River; also,

JWH

That portion of that certain 50.0 foot wide Branch Line right of way being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 4, Section 18, Township 28 North, Range 6 East, W. M., bounded Northeasterly by a line parallel with and distant 150.0 feet Southwesterly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed, and bounded Southerly by the Southerly line of said Government Lot 4; also,

A triangular shaped tract of land being that portion of Government Lot 4, Section 18, Township 28 North, Range 6 East, W.M., bounded Northeasterly by a line parallel with and distant 150.0 feet Southwesterly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed, bounded Northwesterly by a line parallel with and distant 25 feet Easterly from, measured at right angles to said Railway Company's Branch Line right of way Main Track centerline as originally located and constructed and bounded Southerly by the Southerly line of said Government Lot 4; also,

That certain 0.11 acre strip of land described in deed dated September 9, 1903 from J. H. Shadinger and Hattie E. Shadinger to Northern Pacific Railway Company recorded September 19 in Book 80, Page 296, records of Snohomish County, Washington, said 0.11 acre strip of land being described in said deed for reference as follows:

"A strip of land eighty (80) feet in width across that certain thirty-three (33) foot strip of land in Lot four (4), Section eighteen (18), Township twenty-eight (28) north, Range six (6) east, W.M., which lies immediately south of, parallel with and contiguous to the right of way of the Great Northern Railway Company across said subdivision, said eighty (80) foot strip of land having for its east and west boundaries two lines that are parallel with and respectively distant twenty-six (26) feet on the northeasterly side and fifty-four (54) feet on the southwesterly side of the center line of the proposed track which is to connect the Great Northern Railway with the Northern Pacific Railway as the same is located, staked and constructed over and across said subdivision, containing 0.11 acres, more or less"; also,

That certain 1.94 acre strip of land described in deed dated September 9, 1903 from Kate G. Ford, D. A. Ford, Ruth S. Ford and D. A. Ford as sole executor to Northern Pacific Railway Company recorded September 19 in Book 80, Page 298, records of Snohomish County, Washington, said 1.94 acre strip of land being described in said deed for reference as follows:

"All that portion of Lot four (4), Section eighteen (18) and of Lot one (1) (or the northwest quarter of the northwest quarter) of Section nineteen (19), Township twenty-eight (28) north, Range six (6) east, W. M., lying westerly of the Northern Pacific Railway Company's right of way and southerly of a line drawn parallel with and thirty-three (33) feet distant southerly from the south line of the Great Northern Railway Company's right of way and between lines drawn parallel with and respectively distant twenty-six (26) feet easterly from and fifty-four (54) feet westerly from the centerline of the proposed track which is to connect the Northern Pacific Railway with the Great

Northern Railway as the same is now located, staked out and to be constructed over and across said premises, said strip of land containing 1.94 acres, more or less"; also,

That certain 0.08 acre strip of land described in deed dated April 25, 1908 from Robert Henry and Margaret R. Henry to Northern Pacific Railway Company recorded June 1, 1908 in Book 110 of Deeds, Page 509, records of the County Auditor, Snohomish County, Washington, said 0.08 acre strip of land being described in said deed for reference as follows:

"A strip of land thirty (30) feet wide described as follows: Beginning at a point on the section line between Sections 18 and 19, Township 28 North, Range 6 East, Willamette Meridian, fifty-five (55) feet distant measured at right angles from the center line of the main track of the said Railway Company as the same is now located, constructed, maintained and operated through said sections; thence northeasterly on a line parallel with and fifty-five (55) feet distant from said center line one hundred ten (110) feet, more or less, to the south line of the Tacoma Power Company's right of way, thence southeasterly along the south line of said Tacoma Power Company's right of way thirty (30) feet to the westerly line of the present right of way of said Northern Pacific Railway Company, which line at that point is twenty-five (25) feet from the center line of the main track of said Railway Company, thence southwesterly along said westerly line of the right of way one hundred ten (110) feet, more or less, to the point where said right of way widens to fifty (50) feet on each side of said center line; thence westerly twenty-five (25) feet to point of intersection with the above described section line, thence west along said section line five (5) feet, more or less, to place of beginning, said strip being situated in Lot four (4) Section eighteen (18) and Lot one (1) Section nineteen (19) all in Township twenty-eight (28) North, Range six (6) East, Willamette Meridian and containing eight hundredths (0.08) of an acre, more or less."; also,

That portion of said Railway Company's property in Government Lot 4, Section 18, Township 28 North, Range 6 East, W. M., Snohomish County, Washington, bounded Northeasterly and Southwesterly by two lines drawn parallel with and distant Southwesterly 150.0 feet and 183.0 feet, respectively, from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed and bounded Southeasterly and Northwesterly by two lines drawn parallel with and distant Northwesterly 25.0 feet and 50.0 feet, respectively, from, measured at right angles to said Railway Company's Branch Line Main Track centerline as now located and constructed; also,

That portion of that certain 100.0 foot wide Branch Line right of way, in the Town of Bromart, Snohomish County, Washington, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Lots 1 and 2, Section 19, Township 28 North, Range 6 East, W. M., Snohomish County, Washington, bounded Northerly by the North line of said Section 19, and bounded Westerly by the West line of said Section 19; also,

That portion of said Railway Company's property in Lots 1 and 2, Section 19, Township 28 North, Range 6 East, W. M., Snohomish County, Washington, bounded as follows: Westerly by a line parallel with and distant 50.0 feet Easterly from, measured at right angles to said Railway Company's Branch Line Main Track centerline as now located and constructed;

JWT

Northerly by the North line of said Section 19 and Easterly by the following described line:

Beginning at a point on a line parallel with and distant 50.0 feet Southerly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to

Spokane Main Track centerline, as originally located and constructed, opposite Station 512+68.45, said point of beginning being the point of a curve to the left having a radius of 621.20 feet; thence westerly, along the arc of said curve to the left and consuming a central angle of $90^{\circ}57'06''$, an arc distance of 986.10 feet to the point of tangency of said curve, said point of tangency being 125 feet easterly, when measured at right angles from Station 1963+97.51 on said Railway Company's Branch Line Main Track centerline; thence southerly, along a line drawn parallel and/or concentric with and 125 feet easterly, when measured at right angles and/or radially, from said Branch Line Main Track centerline, to a point opposite Station 1956+00 on said Railway Company's Branch Line Main Track centerline, thence westerly, along a line drawn radially with the centerline of said Railway Company's Branch Line Main Track centerline, a distance of 25 feet; thence southerly, along a line drawn concentric with and 100 feet easterly, when measured radially, from the centerline of said Railway Company's Branch Line Main Track centerline, to a point opposite Station 1953+00 on the centerline of said Railway Company's Branch Line Main Track centerline; thence westerly along a line drawn radially with the centerline of said Railway Company's Branch Line Main Track centerline, a distance of 25 feet, thence southerly, along a line drawn concentric with and 75 feet easterly, when measured radially from said Railway Company's Branch Line Main Track centerline to the west line of said Section 19, also being the terminus of the herein described line.

EXCEPTING THEREFROM, a strip of land 30 feet wide, the center line of which is 435 feet north from and parallel with the East and West centerline of said Section 19, extending from the west line of said Section 19 to the East boundary of said hereinabove described tract; **ALSO EXCEPTING THEREFROM**, that portion of said hereinabove described tract lying northerly of a line parallel with and distant 150.0 feet Southerly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline, as originally located and constructed; also,

That portion of that certain 100.0 foot wide Branch Line right of way, in the Town of Bromart, Snohomish County, Washington, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the E1/2E1/2 Section 24, the E1/2NE1/4 Section 25, all in Township 28 North, Range 5 East, W. M., bounded Northerly by the East line of said E1/2E1/2 Section 24, and bounded Southerly by the East line of said E1/2NE1/4 Section 25; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lots 1, 2, 3, 5, 6, of Section 30, Township 28 North, Range 6 East, W. M., bounded Westerly by the West lines of said Lots 1 and 2 and bounded Southerly by the South line of said Lot 5; also,

JWH

That portion of that certain 110.0 foot wide Branch Line right of way, being 60.0 feet Westerly and 50.0 feet Easterly of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 8 of Section 31, Township 28 North, Range 6 East, W. M., bounded Northerly and Southerly by the North and South lines of said Lot 8; also,

That portion of that certain 200.0 foot wide Branch Line right of way, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 3, the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, Township 28 North, Range 6 East, W. M., bounded Northerly by the North line of said SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 31, and bounded Southerly by the South line of said Government Lot 3 and its easterly prolongation; also,

That certain 2.0 acre tract of land described in deed dated April 13, 1918 from John S. Eby to the Northern Pacific Railway Company, recorded April 20, 1918 in Volume 180 of Deeds, Page 451, records of Snohomish County, Washington, said tract being described in said deed for reference as follows:

"That property of the grantor (being the north nine hundred forty-five and five tenths (945.5) feet, more or less, of the south eleven hundred forty-three and five tenths (1143.5) feet of the north-half of the southwest quarter (N $\frac{1}{2}$ of SW $\frac{1}{4}$) of section thirty-one (31) in Township twenty-eight (28) North, Range six (6) East of the Willamette Meridian, west of the present right of way of said Railway Company lying between lines parallel with and distant respectively one hundred (100) and one hundred fifty (150) feet westerly from the center line of the present main track of said Railway Company, as the same is now constructed and operated over and across said section, also that portion of said N $\frac{1}{2}$ of SW $\frac{1}{4}$ lying between lines parallel with and distant respectively one hundred fifty (150) and two hundred (200) feet westerly from said above named main track center line and between a line parallel with and distant one hundred ninety-eight (198) feet northerly from the south line of said government subdivision and a line drawn at right angles to said main track center line at a point distant twenty-one hundred thirty-four and eight tenths (2134.8) feet northerly from its point intersection with the south line of said section 31, containing in all two (2) acres, more or less"; also,

That certain 0.35 acre tract of land described in deed dated March 25, 1918 from John Grinier and Alice Grinier to the Northern Pacific Railway Company, recorded April 10, 1918 in Volume 180 of Deeds, Page 401, records of Snohomish County, Washington, said tract being described in said deed for reference as follows:

"A strip of land of the Westerly side of and adjacent to the present two hundred (200) foot right of way of said Railway Company in the south six (6) acres (or the south one hundred ninety-eight (198) feet more or less, of the north-half of the southwest quarter (N $\frac{1}{2}$ of SW $\frac{1}{4}$) of section thirty-one (31) in Township twenty-eight (28) North, Range six (6) East of the Willamette Meridian, said strip of land being more particularly described as follows:

"Beginning at a point on the south line of said N $\frac{1}{2}$ of SW $\frac{1}{4}$, one hundred (100) feet distant westerly, measured at right angles, from the present main track of said Railway Company, as the same is now, constructed and operated over and across said section; thence northerly on a line parallel with and one hundred (100) feet distant westerly from said center line to the north line of the property of

said grantors (being the north line of the south 198 feet, more or less of the above named government subdivision); thence west along said north line to a point two hundred (200) feet distant westerly, measured at right angles, from said main track center line; thence southeasterly in a straight line to a point on the south line of said above named government subdivision fifty-five (55) feet west of the point of beginning; thence east to the point of beginning, containing thirty-five hundredths (35/100) acres, more or less"; also,

That certain tract of land described in deed dated December 15, 1937 from Ella L. Moulton to the Northern Pacific Railway Company recorded February 19, 1938 in Volume 238 of Deeds, Page 102, records of Snohomish County, Washington, said tract of land being described in said deed for reference as follows:

"That portion of Tract No 139 as shown on the official plat of CATHCART on file and of record in the office of the Auditor of said County situate within the south half of southwest quarter ($S\frac{1}{2}$ of $SW\frac{1}{4}$) of Section thirty-one (31) in Township twenty-eight (28) North, Range six (6) East of the Willamette Meridian, lying easterly of a line parallel with and distant fifty (50) feet westerly measured at right angles, from the center line of the present main track of the Northern Pacific Railway Company as the same is now constructed and operated over and across said section thirty-one"; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 4 in Section 31, Township 28 North, Range 6 East, W M, Government Lots 4, 5, 6 and 7 in Section 6, Government Lots 1, 2, 3, 4 and the $SE\frac{1}{4}SW\frac{1}{4}$ Section 7, Government Lots 2, 3, 4 and the $E\frac{1}{2}NW\frac{1}{4}$ Section 18, Government Lots 1 and 2 Section 19, all in Township 27 North, Range 6 East, W. M., the $E\frac{1}{2}E\frac{1}{2}NE\frac{1}{4}$ Section 12, and the $SE\frac{1}{4}NE\frac{1}{4}$ and the $NE\frac{1}{4}SE\frac{1}{4}$ Section 24, all in Township 27 North, Range 5 East, W. M., bounded Northerly by the North line of said Government Lot 4 in Section 31, and bounded Southerly the West line of said $NE\frac{1}{4}SE\frac{1}{4}$ Section 24; also,

That portion of that certain 200.0 foot wide Maltby Station Ground property, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the $W\frac{1}{2}SE\frac{1}{4}$ Section 24, Township 27 North, Range 5 East, W M, bounded Easterly and Westerly by the East and West lines of said $W\frac{1}{2}SE\frac{1}{4}$ Section 24, **EXCEPTING THEREFROM**, that portion of said 200.0 foot wide Station Ground property lying Northwesterly of a line concentric with and distant 25.0 feet Northwesterly from, measured radially to said Railway Company's Main Track centerline as now located and constructed; also,

That portion of that certain 100.0 foot wide Maltby Station Ground property, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the $E\frac{1}{2}SW\frac{1}{4}$ Section 24, Township 27 North, Range 5 East, W. M., bounded Northerly by the East line of said $SW\frac{1}{4}$ Section 24 and bounded Southerly by the South Line of said $SW\frac{1}{4}$ Section 24, **EXCEPTING THEREFROM**, that portion lying Northwesterly of a line concentric with and distant 25.0 feet Northwesterly from, measured radially to said Railway Company's Main Track centerline as originally located and constructed, bounded Northeasterly by the East line of said $SW\frac{1}{4}$ Section 24, and bounded Southwesterly by the Easterly edge of the travelway of the Street connecting

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JWH

91st Avenue SE with Yew Way in the City of Maltby, Washington, as now located and constructed in a generally Southerly direction from 91st Avenue SE, and about 100 feet Southwesterly of the North-South quarter line of said Section 24, as measured along said Main Track centerline; also,

That portion of that certain 200.0 foot wide Maltby Station Ground property, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the NW $\frac{1}{4}$ Section 25, Township 27 North, Range 5 East, W. M., bounded Northerly and Southerly by the North and South lines of said NW $\frac{1}{4}$ Section 25; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25, Township 27 North, Range 5 East, W. M., bounded Northerly and Westerly by the North and West lines of said NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25; also,

That portion of that certain 200.0 foot wide Branch Line right of way, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25, the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and the NE $\frac{1}{4}$ Section 26, all in Township 27 North, Range 5 East, W. M., bounded on the East by the East line of said NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25, and bounded on the West by the West line of said NE $\frac{1}{4}$ Section 26; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 26, Township 27 North, Range 5 East, W. M., bounded Easterly by the East line of said SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 26, and bounded Westerly by the West Line of said NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 26; also,

That portion of that certain 200.0 foot wide Branch Line right of way, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 26, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, all in Township 27 North, Range 5 East, W.M.; bounded on the East by the East line of said W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 26, and bounded on the South by the South line of said NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35; **EXCEPTING THEREFROM**, that portion lying Westerly of a line parallel and/or concentric with and distant 50.0 feet Westerly from, measured at right angles and/or radially to said Railway Company's Main Track centerline as originally located and constructed, bounded on the North by the North line of said Section 35, and bounded on the South by a line radial to said Main Track centerline at a point 530.0 feet South of the North line of said Section 35, as measured along said Main Track centerline; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, the SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, all in Township 27 North, Range 5 East, W.M., bounded on the North by the North line of said SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, and bounded on the South by the South line of said NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34; also,

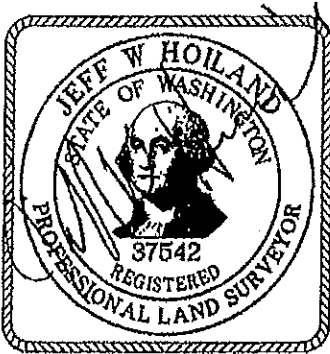
That portion of that certain 50.0 foot wide Branch Line right of way being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the

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9/11/13

SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, Township 27 North, Range 5 East, W.M., bounded on the North by the North line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, and bounded on the South by a line radial to said Railway Company's Main Track centerline, as originally located and constructed, at a point distant 600 feet Southwesterly of said North line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, as measured along said Main Track centerline; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline as originally located and constructed, upon, over and across the S $\frac{1}{2}$ SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 34, Township 27 North, Range 5 East, W.M., bounded on the North by a line radial to said Railway Company's Main Track centerline, as originally located and constructed, at a point distant 600 feet Southwesterly of said North line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34, as measured along said Main Track centerline, and bounded on the South by the South line of said Section 34, said line also being the South line of Snohomish County Washington.



2/25/2016

EXHIBIT E

BILL OF SALE

THIS BILL OF SALE is made this 24th day of March, 2016, by and between the Port of Seattle, a municipal corporation of the State of Washington (the "Port") and Snohomish County, a political subdivision of the State of Washington (the "County").

A. The Port and the County have entered into that certain Real Estate and Purchase and Sale Agreement dated March 8, 2016 (the "Agreement"), pursuant to which the Port has agreed to convey and quitclaim to the County and the County has agreed to accept certain real property located in Snohomish County, Washington, as more particularly described in the Agreement (the "Property").

B. The Property is improved with rail tracks and certain commercial and industrial structures and fixtures associated with rail operations, including that certain bridge structure over the Snohomish River connecting portions of the Property (the "Improvements").

C. Pursuant to the terms of the Agreement, the Port has executed and the County has acknowledged that certain Quit Claim Deed dated of even date herewith pursuant to which the Port has conveyed and quitclaimed and the County has accepted the Property.

D. In accordance with the terms of the Agreement, the Parties are entering into this Bill of Sale for the transfer and conveyance of the Improvements.

NOW, THEREFORE, for and in consideration of the above recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Port does by these presents convey, quitclaim, and deliver unto the County all of its right, title, and interest, if any, in and to any personal property located on the Property together with that certain bridge structure over the Snohomish River connecting portions of the Property (the "Improvements").

TO HAVE AND TO HOLD the Improvements unto the County, its successors and assigns, forever.

IN WITNESS WHEREOF, the Port and the County have executed this Bill of Sale as of the day and year first above written.

PORT:

Port of Seattle, a municipal corporation of the State of Washington

By Theodore J. Fick
Name: Theodore J. Fick
Title: Chief Executive Officer

COUNTY:

Snohomish County, a political subdivision of the State of Washington

By Marcia Isenberg 3/24/16
Name: Marcia Isenberg
Title: Deputy County Executive

EXHIBIT F

480,000 261683

2.00

WHEN RECORDED MAIL TO:

City of Snohomish
118 Union Avenue
Snohomish, Washington 98290



200101120619
01/12/2001 04:46 PM Snohomish
P.0006 RECORDED County

No. 86947 1/12/2001 4:21 PM
Thank you for your payment.
GENI

PNWT 108029-1

QUITCLAIM DEED

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, a Delaware corporation, (formerly Burlington Northern Railroad Company), of 2500 Lou Menk Drive, Fort Worth, Texas 76131-2830, hereinafter called "Grantor", for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, in hand paid, conveys and quitclaims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to **THE CITY OF SNOHOMISH**, a municipal corporation of the State of Washington, of 118 Union Avenue, Snohomish, Washington 98290, hereinafter called "Grantee", all its right, title and interest, if any, in real estate (exclusive of any improvements thereon), subject however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise, situated in the County of Snohomish, State of Washington, hereinafter called "Property", together with all after acquired title of grantor therein, more particularly described as follows

A portion of Blocks 8 & 9 E. C. Ferguson's First Addition and a portion of Lincoln Street, City of Snohomish, Snohomish County, Washington, , complete legal description is described on page 6 as **EXHIBIT "A"**, consisting of one (1) page, attached hereto and made a part hereof

Assessor's Property Tax Parcel Account Number 004440-008-001-00

Grantee has been allowed to make an inspection of the Property and has knowledge as to the past use of the Property. Based upon this inspection and knowledge, Grantee is aware of the condition of the Property and **GRANTEE ACKNOWLEDGES THAT GRANTEE IS PURCHASING THE PROPERTY ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE RELATING TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY, AND THAT GRANTEE IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM GRANTOR AS TO ANY MATTERS CONCERNING THE PROPERTY,** including the physical condition of the Property and any defects thereof, the presence of any hazardous substances, wastes or contaminants in, on or under the Property, the condition or existence of any of the above ground or underground structures or improvements in, on or under the Property, the condition of title to the Property, and the leases, easements or other agreements affecting the Property. Grantee is aware of the risk that hazardous substances and contaminants may be present on the Property, and indemnifies, holds harmless and hereby waives, releases and discharges forever Grantor from any and all present or future claims or demands, and any and all damages, loss, injury, liability, claims or costs, including fines, penalties and judgments, and attorney's fees, arising from or in any way related to the condition of the Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any hazardous substances or contaminants in, on or under the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) capital expenditures necessary to cause the Grantor's remaining property or the operations or business of the Grantor on its remaining property to be in compliance with the requirements of any Environmental Law, (c) losses for injury or death of any person, and (d) losses arising under any Environmental Law enacted after transfer. The rights of Grantor under this section shall be in addition to and not in lieu of any other rights or remedies to which it may be entitled under this document or otherwise. This indemnity specifically includes the obligation of Grantee to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any hazardous substances or contaminants on the Property.

The term "Environmental Law" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law.

The term "Hazardous Substance" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation petroleum oil and any of its fractions

TO HAVE AND TO HOLD the Property, together with all the appurtenances thereunto belonging, unto the said Grantee, its successors and assigns, forever

IN WITNESS WHEREOF, the said Grantor caused this instrument to be signed by its authorized representative, attested by its Assistant Secretary, and its corporate seal to be affixed hereto on the 6th day of January, 2001

**THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY**

By

D P Schneider
D P Schneider

General Director Real Estate

ATTEST:

By

Patricia Zbichorski
Patricia Zbichorski

Assistant Secretary



ACCEPTED BY:

CITY OF SNOHOMISH

By: William R. McDonald

WILLIAM R. McDONALD
CITY MANAGER

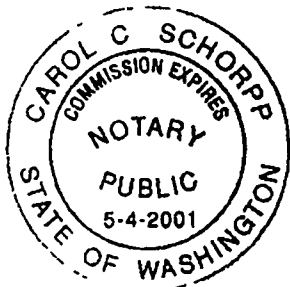
STATE OF WASHINGTON

COUNTY OF SNOHOMISH

§
§ ss.
§

On this 20th day of December, 2000, before me, the undersigned, a Notary Public in and for the State of Texas, duly commissioned and sworn, personally appeared WILLIAM R. McDONALD, to me known to be the City Manager, of **THE CITY OF SNOHOMISH**, the corporation that accepted the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation

Witness my hand and official seal hereto affixed the day and year first above written



Carol C. Schorpp
CAROL C. SCHORPP

Notary Public in and for the State of Washington

Residing at Monroe

My appointment expires 5/4/2001

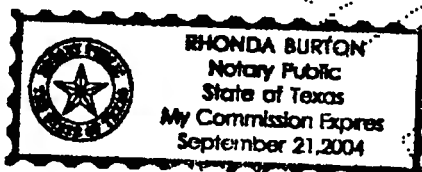
STATE OF TEXAS

COUNTY OF TARRANT

§
§ ss.
§

On this 6th day of January, 2001, before me, the undersigned, a Notary Public in and for the State of Texas, duly commissioned and sworn, personally appeared D. P. Schneider and Patricia Zbichorski, to me known to be the General Director Real Estate and Assistant Secretary, respectively, of **THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY**, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation

Witness my hand and official seal hereto affixed the day and year first above written



Rhonda Burton
Notary Public in and for the State of Texas

Residing at Carrollton, Texas

My appointment expires 9/21/2004

FORM APPROVED BY LAW

EXHIBIT "A"

All that portion of Parcels A and B below lying Westerly of the following described Line

PARCEL A:

Lots 1 through 8, inclusive, Block 9, E C. Ferguson's First Addition, according to the plat thereof recorded in Volume 1 of Plats, page 15, in Snohomish County, Washington

PARCEL B:

Lots 1 through 8, inclusive, Block 8, E C Ferguson's First Addition, according to the plat thereof recorded in Volume 1 of Plats, page 15, in Snohomish County, Washington

TOGETHER WITH that portion of Lincoln Street, if any, lying between Parcels A and B above and the following described Line

LINE DESCRIPTION

A line 25 feet Westerly of and parallel with the centerline of The Burlington Northern and Santa Fe Railway Company's Main Track, as now located and constructed

APPROVED LEGAL	7
APPROVED FORM	ZEW
APPROVED	ZEW

WHEN RECORDED MAIL TO:

City of Snohomish
116 Union Avenue
Snohomish, WA 98290



200901150103 11 PGS
01/15/2009 9:42am \$52.00
SNOHOMISH COUNTY, WASHINGTON

PNWT 1066246

No. 4868616 1/15/2009 9:34 AM
Thank you for your payment.
PAJ

QUITCLAIM DEED
(Washington)

GRANTOR: BNSF RAILWAY COMPANY, a Delaware corporation

GRANTEE: CITY OF SNOHOMISH, a Municipal Corporation of the
State of Washington

Abbreviated Legal Description: Ptn. Sec. 7, 18, T28N, R6E, W.M.,
Snohomish County, WA

Assessor Property Tax Parcel Account Numbers: 009953-000-735-00, 004359-
002-021-00, 280618-002-074-00, 005377-007-003-00 and 280618-001-009-00

BNSF RAILWAY COMPANY, a Delaware corporation, (formerly known as The Burlington Northern and Santa Fe Railway Company and formerly known as Burlington Northern Railroad Company), of 2500 Lou Menk Drive, Fort Worth, Texas 76131-2830, hereinafter called "Grantor", for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, in hand paid, conveys and quitclaims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to **CITY OF SNOHOMISH**, a Municipal Corporation of the State of Washington, of 116 Union Avenue, Snohomish, Washington 98290, hereinafter called "Grantee", all its right, title and interest, if any, in real estate, subject however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise, situated in the County of Snohomish, State of Washington, hereinafter called "Property", together with all after acquired title of Grantor therein, additional legal description is on **EXHIBIT "A"**, consisting of four (4) pages attached hereto and made a part hereof.

Grantee covenants and agrees as follows:

(a) Grantee's interest shall be subject to the rights and interests of Grantor, Grantor's licensees, permittees and other third parties in and to all existing driveways, roads, utilities, fiber optic lines, tracks, wires and easements of any kind whatsoever on the Property whether owned, operated, used or maintained by the Grantor, Grantor's licensees, permittees or other third parties and whether or not of public record. Grantor shall have a perpetual easement on the Property for the use of such existing driveways, roads, utilities, fiber optic lines, tracks, wires and easements by Grantor and Grantor's licensees, permittees and customers.

(b) Any improvements constructed or altered on the Property after the date Grantor quitclaims its interest to Grantee shall be constructed or altered in such a manner to provide adequate drainage of water away from any of Grantor's railroad tracks on nearby property.

(c) Grantee acknowledges and affirms that Grantor may not hold fee simple title to the Property, that Grantor's interest in all or part of the Property, if any, may rise only to the level of an easement for railroad purposes. Grantee is willing to accept Grantor's interest in the Property, if any, on this basis and expressly releases Grantor, its successors and assigns from any claims that Grantee or its successors may have as a result of an abandonment of the line of rail running over or adjacent to any portion of the Property. In light of Grantor's disclosure that it may not hold a fee interest in all or part of the Property, Grantee agrees to indemnify, defend and hold Grantor harmless from any suit or claim for damages, punitive or otherwise, expenses, attorneys' fees, or civil penalties that may be imposed on Grantor as the result of any person or entity claiming an interest in any portion of the Property or claiming that Grantor did not have the right to transfer all or part of the Property to Grantee.

(d) Grantee acknowledges that the Property was the subject on an abandonment proceeding with the Surface Transportation Board (STB Docket No. AB-6 (Sub-No.422X) and that Grantor has consummated said abandonment subject to certain conditions relating to salvage of the Track Personal Property. Grantor hereby assigns to Grantee and Grantee hereby assumes from Grantor the following obligations with respect to salvage of the Track Personal Property, and agrees to indemnify, defend, and hold harmless, and waive, release and discharge forever the Indemnitees from any and all claims or demands, and any and all damages, Losses, injuries, liabilities, causes of actions (including, without

limitation, causes of action in tort) costs and expenses (including, without limitation fines, penalties and judgments, and attorneys' fees) of any and every kind or character, known or unknown, arising out of such obligations:

(1) In the event that any archaeological sites, human remains, funerary items or associated artifacts are discovered during its salvage activities, Grantee shall immediately cease all work and notify the Surface Transportation Board's Section of Environmental Analysis ("SEA"), interested Federally recognized tribes, and the Washington Office of Archaeology and Historic Preservation ("SHPO"), and then consult with SEA, the SHPO and interested Federally recognized tribes to determine whether any mitigation measures are necessary.

(2) Prior to commencement of any salvage activities, Grantee shall contact the Water Quality Program at the Washington Department of Ecology concerning possible impacts on water quality and regarding the need for a NPDES General Permit for storm water discharges.

(3) Prior to commencement of salvage activities, Grantee shall consult with U.S. Fish and Wildlife Service, Region 1, concerning the effect of salvage on endangered species.

Grantee agrees to provide Grantor with written confirmation of its notification of each said government agency.

(e) Grantee has been allowed to make an inspection of the Property. **GRANTEE IS PURCHASING THE PROPERTY ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE RELATING TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY, AND IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM GRANTOR AS TO ANY MATTERS CONCERNING THE PROPERTY,** including, but not limited to the physical condition of the Property (including the physical condition and any dismantling, removal, and disposal costs of any Track Personal Property included in the Property); zoning status; tax consequences of this transaction; utilities; operating history or projections or valuation; compliance by the Property with Environmental Laws (defined below) or other laws, statutes, ordinances, decrees, regulations and other requirements applicable to the Property; the presence of any Hazardous Substances (defined below); wetlands,

asbestos, lead, lead-based paint or other lead containing structures, urea formaldehyde, or other environmentally sensitive building materials in, on, under, or in proximity to the Property; the condition or existence of any of the above ground or underground structures or improvements, including tanks and transformers in, on or under the Property; the condition of title to the Property, and the leases, easements, permits, orders, licenses, or other agreements, affecting the Property (collectively, the **"Condition of the Property"**). Grantee represents and warrants to Grantor that Grantee has not relied and will not rely on, and Grantor is not liable for or bound by, any warranties, guaranties, statements, representations or information pertaining to the Property or relating thereto (including specifically, without limitation, Property information packages distributed with respect to the Property) made or furnished by Grantor, the manager of the Property, or any real estate broker or agent representing or purporting to represent Grantor, to whomever made or given, directly or indirectly, orally or in writing. Grantee assumes the risk that Hazardous Substances or other adverse matters may affect the Property that were not revealed by Grantee's inspection and indemnifies, holds harmless and hereby waives, releases and discharges forever Grantor and Grantor's officers, directors, shareholders, employees and agents (collectively, **"Indemnitees"**) from any and all present or future claims or demands, and any and all damages, Losses, injuries, liabilities, causes of actions (including, without limitation, causes of action in tort) costs and expenses (including, without limitation fines, penalties and judgments, and attorneys' fees) of any and every kind or character, known or unknown, which Grantee might have asserted or alleged against Indemnitees arising from or in any way related to the Condition of the Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any Hazardous Substances in, on or under the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) capital expenditures necessary to cause the Grantor remaining property or the operations or business of the Grantor on its remaining property to be in compliance with the requirements of any Environmental Law, (c) Losses for injury or death of any person, and (d) Losses arising under any Environmental Law enacted after transfer. The rights of Grantor under this section shall be in addition to and not in lieu of any other rights or remedies to which it may be entitled under this document or otherwise. This indemnity specifically includes the obligation of Grantee to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any Hazardous Substances on the Property. The term **"Environmental Law"** means any federal, state or local statute,

regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law. The term "**Hazardous Substance**" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation petroleum oil and any of its fractions.

The covenants and agreements set forth in paragraphs (a) through (e), above, shall be binding upon Grantee and Grantee's heirs, successors and assigns, and shall be covenants running with the land benefiting Grantor and its heirs, successors and assigns.

TO HAVE AND TO HOLD the Property, together with all the appurtenances thereunto belonging, unto the said Grantee, Grantee's successors and assigns, forever.

IN WITNESS WHEREOF, the said Grantor caused this instrument to be signed by its authorized representative, attested by its Assistant Secretary, and its corporate seal to be affixed hereto on the 8th day of January, 2009.

BNSF RAILWAY COMPANY

By: Julie A. Piggott

Julie A. Piggott
Vice President-Finance



ATTEST:

By: Patricia Zbichorski

Patricia Zbichorski
Assistant Secretary

ACCEPTED:

CITY OF SNOHOMISH

By: *Larry Bauman*

Name: Larry Bauman

Title: City Manager

STATE OF WASHINGTON

§

§ ss.

§

COUNTY OF SNOHOMISH

On this 12th day of January, 2009,
before me, the undersigned, a Notary Public in and for the State of
Washington, duly commissioned and sworn, personally appeared
Larry Bauman to me known to be the
City Manager of the **CITY OF SNOHOMISH**, a Municipal
Corporation of the State of Washington that accepted the foregoing instrument,
and acknowledged the said instrument to be the free and voluntary act and deed
of said corporation, for the uses and purposes therein mentioned, and on oath
stated that they are authorized to accept said instrument for said corporation.

Witness my hand and official seal hereto affixed the day and year first
above written.

Torchie Corey

Notary Public for the State of Washington

Residing at: Snohomish

My appointment expires: 5/9/10



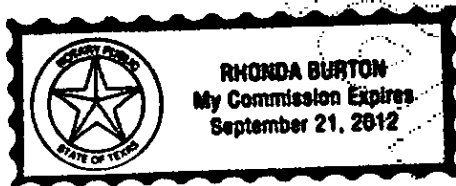
STATE OF TEXAS

COUNTY OF TARRANT

§
§ ss.
§

On this 8th day of January, 2009,
before me, the undersigned, a Notary Public in and for the State of Texas, duly
commissioned and sworn, personally appeared Julie A. Piggott and Patricia
Zbichorski, to me known to be the Vice President-Finance and Assistant
Secretary, respectively, of **BNSF RAILWAY COMPANY**, the corporation that
executed the foregoing instrument, and acknowledged the said instrument to be
the free and voluntary act and deed of said corporation, for the uses and purposes
therein mentioned, and on oath stated that they are authorized to execute the said
instrument and that the seal affixed is the corporate seal of said corporation.

Witness my hand and official seal hereto affixed the day and year first
above written.



Rhonda Burton
Notary Public for the State of Texas

Residing at: Carrollton, Texas

My appointment expires: 9/21/2012

FORM APPROVED BY LAW

APPROVED LEGAL	<u>KKR</u>
APPROVED FORM	<u>Rhee</u>
APPROVED	<u>BEW</u>

EXHIBIT A

Page 1 of 4

The Burlington Northern Santa Fe Railway Company
Snohomish Trackage Line
December 8, 2008

Legal Description – City of Snohomish Acquisition Offer

BNSF Parcel 16 – Vacated State Avenue

All that portion of West half of State Avenue lying north of Bowen Street (Fourth Street per Plat) as shown on the plat of Mrs. M.L. Packard's First Addition as recorded in Volume 1 of Plats at page 21, records of Snohomish County, Washington, as disclosed in Ordinance No. 1597 and amended by Ordinance No. 1718.

BNSF Parcel 18

Those portions of Lots 4, 5 and 6 in Block 7 of Mrs. M. L. Packard's First Addition, according to plat Recorded in Volume 1 of Plats, Page 21, In Snohomish County, Washington, lying Easterly and Southeasterly of a line drawn concentric with and distant 15.0 feet Westerly, as measured radially from, the Burlington Northern and Santa Fe Railway company's Old Seattle to Sumas, Washington, Main Track Centerline as now located and constructed on the 24th day of February, 1998.

BNSF Parcel 19 & 19A

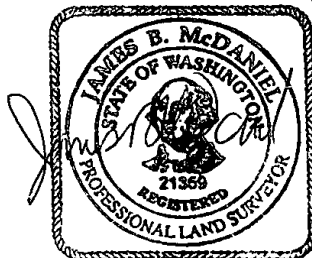
The Westerly half of Lincoln Street, formerly Railroad Avenue, between Second and Third Streets in the City of Snohomish, State of Washington. (portion of Quit Claim Deed, Auditor's File No. 682911).

ALSO that portion of the South 20 feet of Third Street lying between the produced centerline and the produced West line of the original 80 foot Railroad Avenue, now known as Lincoln Street, vacated per Ordinance No. 694, recorded under Auditor's File No. 684066;

ALSO that portion of the Southwest quarter of the Northeast quarter of Section 18, Township 28 North, Range 6 East, W.M. that lie West of the West marginal line of Railroad Street as the same is shown on the Plat of Mrs. Hogan's Addition to Snohomish, recorded in Volume 2 of Plats at Page 20, Records of Snohomish County, Washington (Right of Way Deed, Volume 18 of Deeds, Page 475, Auditor's File No. 13583).

BNSF Parcels 20 and 21

Those portions of Lots 1 through 8, inclusive, in Block 1 of E.C. Ferguson's First addition to Snohomish, according to plat recorded on Volume 1 of Plats page 15 records of Snohomish County, Washington, lying easterly of a line drawn parallel with and 15 feet distant from, measured at right angles, being westerly from the centerline of the Burlington Northern and Santa Fe Railway company (formerly Northern Pacific Railway Company) main track as located and constructed.



BNSF Parcel 21C

Those portions of Lots 1 through 8, inclusive, in Block 8 of E.C. Ferguson's First Addition to Snohomish, according to plat thereof recorded on Volume 1 of Plats, Page 15 records of Snohomish County, Washington, lying Easterly of a line drawn parallel with and 25 feet measured at right angles Westerly from the centerline of the Burlington Northern and Santa Fe Railway company (formerly Northern Pacific Railway Company) main track as located and constructed.

BNSF Parcel 21D

Those portions of Lots 1 through 8, inclusive, in Block 9 of E.C. Ferguson's First Addition to Snohomish, according to plat thereof recorded on Volume 1 of Plats, page 15 records of Snohomish County, Washington, lying easterly of a line drawn parallel with and 25 feet measured at right angles westerly from the centerline of the Burlington Northern and Santa Fe Railway company (formerly Northern Pacific Railway Company) main track as located and constructed.

BNSF Parcel 22

Those certain rights of way 100 feet in width within the Southwest quarter of the Northwest quarter of the Northeast quarter of Section 18, Township 28 North, Range 6 East, W.M., in Snohomish County, Washington, as conveyed to the Seattle, Lakeshore and Eastern Railway by documents recorded November 27, 1891, under Recording Nos. 13169, 13170, 13171, and 13172 in Volume 20 of Deeds, Pages 18 through 24, Records of Snohomish County, Washington; said rights of way being 50 feet on each side of the centerline as located, staked and established on the dates of said documents.

EXCEPT from said rights of way the Easterly 22.25 feet thereof as conveyed to Cedergreen Foods Corp. by deed recorded August 8, 1974 under Recording No. 2352594.

BNSF Parcel 27

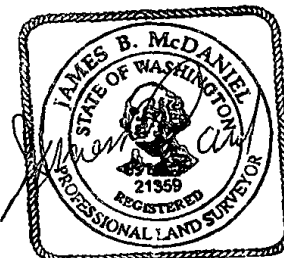
(Volume 7 of Deeds, Page 250) Those portions of Lots 1 and 2, Block 1 of England's Addition to Snohomish according to the map recorded in Volume 1 of Plats at page 38, Records of Snohomish County, Washington, lying within a strip of land 50 feet on each side of the centerline of The Burlington Northern and Santa Fe Railway Company's Main Track, as located and constructed.

BNSF Parcel 28, Portion of

That portion of Block 2 of England's Addition to Snohomish according to the map thereof recorded in Volume 1 of Plats at page 38, Records of Snohomish County, Washington, described as follows:

The Southeasterly 25 feet of a strip of land 50 feet wide, lying Southeasterly of, parallel with, and adjacent to the centerline of Maple Avenue; sidelines of this Southeasterly 25 foot strip are lengthened or shortened as the case may be to provide a full 25 foot width in its entirety from the West side of said Block 2 to the East line thereof;

TOGETHER WITH those portions of Lots 22, 23 and 24, Block 2 of England's Addition to Snohomish according to the map thereof recorded in Volume 1 of Plats at Page 38, Records of Snohomish County, Washington, lying Easterly of said Southeasterly 25 foot wide strip.



12-8-08

BNSF Parcel 31

That portion of the following described strip of land lying East of Maple Street:

A strip of land located in the Sections 7 and 18, Township 28 North, Range 6 East, W.M., said strip of land being sixty six (66) feet in width, and being thirty three (33) feet on either side of the following described centerline:

Beginning at a point on the West line of said Section 7, said point being 1038.5 feet North of the Southwest corner thereof; thence Southeasterly on a curve to the right 102.6 feet; thence on a tangent 2392 feet; thence on a curve to the right 778.3 feet; thence on a tangent 250 feet to the right of way of the Seattle Lake Shore and Eastern Railway, and the end of this centerline description.

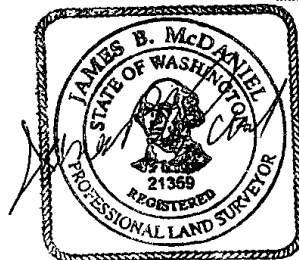
Sidelines of this strip shall be lengthened or shortened as the case may be to provide a full sixty six (66) foot width in its entirety between the west line of said Section 7 and the west line of said Seattle Lake Shore and Eastern Railway right of way, centered on the rail road as it was located and described in the Quit Claim Deed from E.C. Ferguson to Northern Pacific Railway Company by deed recorded in Volume 89 of Deeds at page 615, records of Snohomish County, Washington.

BNSF Parcel 38

(Quit Claim Deed, Auditor's File No. 682911) That portion of vacated Lincoln Street, formerly Railroad Avenue, in the City of Snohomish in the State of Washington, described as follows, to wit:

Commencing at the Northwest corner of Block 1 in the Plat of Mrs. Hogan's Addition to Snohomish as recorded in Volume 2 of Plats at page 20, Records of Snohomish County, Washington; thence South along West line of said Block 1 and along said line produced for 479.27 feet to the TRUE POINT OF BEGINNING; thence N21°48'W for 107.7 feet to an intersection with the North and South centerline of Lincoln Street; thence South 101.25 feet to an intersection with the North line of Second Street, produced West; thence East 40.02 feet along the North line of Second Street to the TRUE POINT OF BEGINNING.

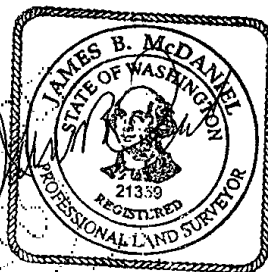
Situate in the County of Snohomish, State of Washington.



BNSF Parcel 16

That portion of those certain rights to appropriate, use and occupy a right of way for railroad purposes conveyed to the Seattle and West Coast Railway by the Board of County Commissioners at the meeting of said Board on August 10, 1887 and as recorded in Volume 2 of Commissioners Records at page 420, lying within the right of way of State Street as shown on the plat of Mrs. M.L. Packard's First Addition, according to plat recorded in Volume 1 of Plats at page 21, and as shown on the Plat of Snohomish City Eastern Part, according to plat recorded in Volume 1 of Plats at page 7, and lying Northerly of the centerline of Commercial Street and lying Westerly of the West line of Lincoln Avenue as shown on said plats.

Situate in the County of Snohomish, State of Washington.



12-15-08

EXHIBIT G

WHEN RECORDED RETURN TO:

Brandon Buchanan, City Manager
City of Woodinville
17301 133rd Ave NE
Woodinville WA 98072

QUIT CLAIM DEED

Grantor: GNP RLY Inc.

Grantee: City of Woodinville

Abbreviated Legal Description: Portions of secs. 3, 9 and 10, T. 26 N., R. 5 E., W.M., in King County, Washington.

Full legal description appears on pages 3-7 herein.

Assessor's Property Tax Parcel or Account Numbers: 0926059043, 1026059040, 0326059025

Reference Numbers of Documents Assigned or Released: n/a

QUIT CLAIM DEED

The Grantor, GNP RLY Inc., a Washington corporation, for and in consideration of ten dollars and other good and valuable consideration in hand paid, hereby conveys and quitclaims to the Grantee, the City of Woodinville, a Washington municipal corporation, all interest in the real property described in Exhibit A hereto (Legal Description of Freight Easement), except that portion of real property described in Exhibit B hereto (Legal Description of West Spur), each incorporated herein by this reference, situated in King County, State of Washington.

DATED this 7th day of June, 2023.

GRANTOR
GNP RLY Inc.

By: *Kevin Kucera*
Kevin Kucera, President

State of Washington)
County of King) ss.

I certify that I know or have satisfactory evidence that Kevin Kucera is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of GNP RLY Inc. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 7 day of June, 2023.
Diane C Fulton
Notary Public in and for the state of Washington, residing at Woodinville.
My appointment expires 4/02/2025.



Exhibit A

Legal Description of Freight Easement

All that portion of the BNSF Railway Company's (formerly Northern Pacific Railway Company) Snohomish to Woodinville, Washington Branch Line right-of-way, varying in width on each side of said Railway Company's Main Track centerline, as now located, and as conveyed by deed recording under Recording No. 20091218001536, King County, Washington, being a portion of Sections 3, 9 and 10, Township 26 North, Range 5 East, W.M., more particularly described as follows, to-wit:

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across the Lots 2, 3, the S1/2N1/2, and the E1/2SW1/4 Section 3, the NW 1/4 Section 10, all in Township 26 North, Range 5 East, W.M., bounded on the North by the North line of said Section 3, said line also being the North line of King County, Washington, and bounded on the West by the West line of said NW1/4 Section 10, **EXCEPTING THEREFROM**, that portion lying Easterly of a line parallel with and distant 20 feet Easterly from, measured at right angles to said Railroad Company's Main Track centerline as now located and constructed, bounded on the North by the South line of 8th Street, according to the recorded plat of Bear Creek Addition to Day City, Washington, and bounded on the South by a line perpendicular to said Railway Company's Main Track centerline distant 450.0 feet Southerly from the North line of said E1/2SW1/4 Section 3, as measured along said Main Track centerline; also,

A 100 foot wide strip of land being that portion of that certain 100.0 foot wide strip of land described in deed dated June 8, 1887 from Ira Woodin and Susan Woodin to Seattle and West Coast Railway, recorded June 14, 1887 in Book 42 of Deeds, Page 410, under recording number 13894, records of King County, Washington, that portion of that certain 100.0 foot wide strip of land described in deed dated July 26, 1890 from Ira Woodin and Susan Woodin to Seattle and West Coast Railway, recorded November 10, 1890 in Book 112 of Deeds, Page 556, under recording number 66520, records of King County, Washington, and that certain 100.0 foot wide strip of land described in deed dated June 14, 1887 from Mary B. Jaderholm to Seattle and West Coast Railway, recorded June 14, 1887 in Book 41 of Deeds, Page 385, under recording number 13895, records of King County, Washington, lying in Section 9, and bounded on the West by a line drawn radially to said Railway Company's Main Track centerline, distant 1867.0 feet Easterly of the West line of said Section 9, also being the Easterly boundary of that certain Tract VIII described in deed dated December 19, 1985 from Burlington Northern Railroad Company to King County, recorded in the records of King County, Washington as Instrument No. 8512191094, **EXCEPTING THEREFROM**, that certain tract of land described in Deed dated June 29, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded May 22, 2000 as Document No. 20000522001158, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that portion of that certain tract of land described in deed dated November 17, 1998 from The Burlington Northern and Santa Fe Railway Company to Tjossem Properties IV, LLC and Tjossem Properties V, LLC, recorded December 23, 1998 as Instrument No. 9812240021, which lies within said 100.0 foot strip of land; also,

That certain approximately 0.32 acre tract of land described in deed dated July 24, 1903 from Frank A. Woodin and Anna Woodin to Northern Pacific Railway Company recorded July 30, 1903 in Book 370 of

Deeds, Page 89, under recording number 269856, records of King County, Washington, said 0.32 acre tract being described in said deed for reference as follows:

"All that portion of the Southeast quarter of the Northeast quarter (SE/4 of NE/4) of Section Nine (9), Township Twenty-six (26) North, Range Five (5) East, W.M., described be metes and bounds as follows: Beginning at the point where the southeasterly line of the present right of way of the Northern Pacific Railway intersects the south line of the said Southeast quarter of the Northeast quarter (SE/4 of NE/4) and running thence east along the south line of said Southeast quarter of the Northeast quarter (SE/4 of NE/4) a distance of 190 feet, more or less, to a point which is 50 feet distant from, when measured at right angles to the center line of the proposed Seattle Belt Line Branch of the Northern Pacific Railway as the same is now located, staked out and to be constructed over and across said Government subdivision thence running northeasterly and parallel with and 50 feet distant from said center line of the Seattle Belt Line Branch distant 400 feet, more or less, to a point in the southeasterly line of the present right of way of Northern Pacific Railway, thence southwesterly along said right of way line to point of beginning; EXCEPT that portion of said southeast quarter of the northeast quarter lying southeasterly of the southeasterly line of the 100-foot wide Sumas Branch right-of-way and northwesterly of the northwesterly line of the 100-foot wide Seattle Belt Line right-of-way; containing 0.32 acres, more or less."; also,

That portion of that certain 100 foot wide strip of land lying in the N/2 of the SE/4 of Section 9, Township 26 North, Range 5 East, W.M., being that certain 1.91 acre tract of land described in deed dated May 19, 1903 from Mary B. Hansen and Anders Hansen to Northern Pacific Railway Company recorded May 28, 1903 in Volume 361 of Deeds, Page 48, under recording number 264622, records of King County, Washington and that certain 0.92 acre tract of land described in deed dated July 1, 1903 from A.J. Milton and Anna Milton to Northern Pacific Railway Company recorded July 10, 1903 in Volume 363 of Deeds, Page 211, under recording number 268209, records of King County, Washington, said 100 foot wide strip being described as follows:

"A 100 foot wide strip of land being 50.0 feet on each side of said Railway Company's Seattle Belt Line Main Track centerline as originally located and constructed, upon, over and across said N/2 of the SE/4 of Section 9, bounded Northerly and Southerly by the North and South lines of said N/2 of the SE/4 of Section 9.";

EXCEPTING THEREFROM, that portion lying Southerly of the Northeasterly boundary of that certain 100 foot wide tract of land described in deed dated May 4, 1887 from Mary B.

Jaderholm to Seattle Lake Shore and Eastern Railway Company, recorded May 5, 1887 in volume 40 of Deeds, Page 288, records of said County; also,

That certain approximately 0.03 acre triangular tract of land described in deed dated June 4, 1923 from Mary B. Hansen and A. Hansen to Northern Pacific Railway Company recorded June 8, 1923 in Volume 1192 of Deeds, Page 539, under recording number 1746823, records of King County, Washington, said approximately 0.03 acre tract being described in said deed for reference as follows:

"That certain triangular portion of the northeast quarter of southeast quarter (NE1/4 of SE1/4) of section nine (9) in township twenty-six (26) north of range five (5) east of the Willamette Meridian, lying easterly of and between the rights of way of the Northern Pacific Railway Company for its Snoqualmie Branch and its Lake Washington Belt Line and westerly of a line parallel with and distant twenty-five (25) feet easterly, measured at right angles from the center line of the proposed wye track connection between said branch lines as the same is now located, staked out and to be constructed over and across said premises, containing three hundredths (0.03) acres, more or less.", also,

That portion if that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across that portion of the N1/2SE1/4 of Section 9, Township 26 North, Range 5 East, W.M., King County, Washington, lying Northerly of the Southwesterly boundary of that certain 100 foot wide tract of land described in deed dated June 14, 1887 from Mary B. Jaderholm to Seattle and West Coast Railway, recorded June 14, 1887 in Volume 41 of Deeds, Page 385, under recording number 13895, records of said County.

Containing an area of 30.394 acres more or less

Exhibit B

Legal Description of West Spur

PORTION OF THE SNOHOMISH TO WOODINVILLE BRANCH LINE PER ROS. REC. NO. 20151203900001
SE1/4, NE1/4, AND THE NW1/4 OF SEC. 9, T. 26 N., R. 5 E., W.M.
CITY OF WOODINVILLE, KING COUNTY, WASHINGTON

A STRIP OF LAND LYING PARALLEL TO THE SNOHOMISH TO WOODINVILLE BRANCH LINE CENTERLINE AS
SHOWN ON RECORD OF SURVEY RECORDED UNDER RECORDING NUMBER 20151203900001, RECORDS
OF KING COUNTY, WASHINGTON;

SAID STRIP OF LAND BEING 100 FOOT WIDE LYING 50 FEET ON EACH SIDE AND PARALLEL TO THE
FOLLOWING DESCRIBED CENTERLINE;
BEGINNING AT A POINT ON THE EASTERLY END OF A CURVE TO THE RIGHT DEFINED AS "C8" AS SHOWN
ON SAID RECORD OF SURVEY HAVING A RADIUS OF 987.60 FEET, THE CENTER OF WHICH BEARS NORTH
21°00'46" WEST;
THENCE ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 10°48'53" FOR AN ARC
LENGTH OF 186.41 FEET TO A POINT OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 924.13
FEET;
THENCE ALONG SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 14°11'24" FOR AN ARC
LENGTH OF 228.87 FEET TO A POINT ON A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 858.76
FEET;
THENCE ALONG SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 24°18'07" FOR AN ARC
LENGTH OF 364.24 FEET TO A POINT ON A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 912.08
FEET;
THENCE ALONG SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 07°40'52" FOR AN ARC
LENGTH OF 122.27 FEET;
THENCE NORTH 54°01'30" WEST A DISTANCE OF 299.86 FEET TO A POINT ON A TANGENT CURVE TO
THE LEFT HAVING A RADIUS OF 1519.16 FEET;
THENCE ALONG SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 02°16'35" FOR AN ARC
LENGTH OF 60.36 FEET TO A POINT ON A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1205.70
FEET;
THENCE ALONG SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 02°59'08" FOR AN ARC
LENGTH OF 62.83 FEET TO A POINT ON A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 739.52
FEET;
THENCE ALONG SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 02°35'03" FOR AN ARC
LENGTH OF 33.35 FEET;
THENCE NORTH 61°52'16" WEST A DISTANCE OF 1047.78 FEET TO A POINT ON A TANGENT CURVE TO
THE LEFT HAVING A RADIUS OF 955.37 FEET;
THENCE ALONG SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 08°01'10" FOR AN ARC
LENGTH OF 133.72 FEET AND TO THE TERMINUS POINT OF SAID CENTERLINE;

THE SIDELINES OF SAID STRIP OF LAND BEING EXTENDED OR SHORTENED TO A LINE PERPENDICULAR TO
SAID CENTERLINE AT THE POINT OF BEGINNING AND THE TERMINUS POINT;

EXCEPT THAT PORTION OF THE PARCEL SURVEYED UNDER RECORDING NUMBER 9902039006, RECORDS
OF KING COUNTY, WASHINGTON;

ALSO EXCEPT THAT PORTION OF "PARCEL 2" AS SHOWN ON CITY OF BOTHELL BOUNDARY LINE
ADJUSTMENT NO. BLA2001-00003 RECORDED UNDER RECORDING NUMBER 20020612900035,
RECORDS OF KING COUNTY, WASHINGTON.

SAID STRIP OF LAND CONTAINING 239,719 SQUARE FEET MORE-OR-LESS.

Unofficial Copy

Attachment 5

Declaration of Sharon Swan

Exhibit A – Letter, ECR to Snohomish County Council, 6 June 2016

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BEFORE THE SURFACE TRANSPORTATION BOARD

SNOHOMISH COUNTY,
ADVERSE ABANDONMENT APPL. –
GNP RLY INC
In SNOHOMISH COUNTY, WA

No. AB 1331
DECLARATION OF SHARON SWAN

I, SHARON SWAN, declare under penalty of perjury pursuant to 28 U.S.C. 1246 that the following is true and correct to the best of my knowledge and belief:

1. I am over the age of 18 years and am competent to testify to the matters set forth herein.
2. I am the Director of the Parks Division of the Snohomish County Department of Conservation and Natural Resources ("Parks"). I have been employed in this capacity since 2022 and have been a Parks employee in some capacity since 2003. I am familiar with and knowledgeable about Parks policies, procedures, processes, and ongoing work performed by Parks employees.
3. As Director of Parks, I am responsible for the overall supervision of all Parks operations. My basic job function is to plan, organize, coordinate, and direct the operations of Parks, the County parks system (including the County fairgrounds), and Parks employees.

1 I report directly to the Director of the County Department of Conservation and Natural
2 Resources

3 4. As Director of Parks, I am also familiar with and knowledgeable regarding
4 the County's interests in the "Eastside Rail Corridor" (also known as the "Woodinville
5 Subdivision") and the County's currently ongoing efforts to achieve "railbanking" of the
6 "freight portion" of said Woodinville Subdivision insofar as it is inside the boundaries of
7 Snohomish County. As Director of Parks I also have access to various Parks records
8 maintained in the course of ordinary Parks business, including records concerning
9 the Eastside Rail Corridor. I can and have accessed such records in connection with
10 the preparation of this declaration
11

12 5. Snohomish County's interest in the Eastside Rail Corridor predates
13 acquisition of the property by the Port of Seattle from Burlington Northern Santa Fe
14 ("BNSF"). The Snohomish County Council adopted a resolution in 2009 (Joint Resolution
15 No. 09-001) indicating Snohomish County's strong support for concurrent development of
16 freight, passenger, and excursion rail service and a bicycle/pedestrian trail on the Eastside
17 Rail Corridor.
18

19 6. The Port of Seattle acquired the Eastside Rail Corridor (MP 38.25 in City of
20 Snohomish to MP 23.8 in Woodinville) in 2009, subject to a BNSF retained freight easement
21 which in turn was subject to a covenant to ensure railbanking in the event of non-use for rail.
22 Snohomish County acquired the Port's interests in the Eastside Rail Corridor in Snohomish
23 County in 2016 for \$3,500,000. The relevant Purchase and Sale Agreement indicated that
24 the County's interest in acquiring the property was "... for the purposes of developing a
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1 regional trail and other public uses and transportation uses.” The Purchase and Sale
2 Agreement also specifically noted that the Corridor was not railbanked and that the property
3 was subject to active freight rail operations.

4 7. Shortly after the County acquired the Port’s interests in Snohomish County
5 in 2016, the freight easement holder (then ECR) wrote the County Council indicating that a
6 major customer was leaving the line and noting that to secure other business the line would
7 need to be rehabilitated to Class II status. ECR asked the County to provide \$500,000, in
8 order to apply for rehabilitation grants and further stated that there was no interest in
9 operating the line unless it were substantially subsidized for rehabilitation. (See Exhibit A)
10 Given that maintenance and rehabilitation of the line were not the responsibility of the
11 County, the County declined to provide this funding and ECR did not take further measures
12 toward rehabilitation.
13

14 8. Use of the line in the following years was minimal and temporarily halted in
15 2019, when a rail bridge was damaged in a traffic accident. Rail use completely halted in
16 2020 when ECR embargoed the entire line due to track conditions. ECR’s rail license to
17 own and to operate the line was revoked by STB, and ECR was subsequently determined in
18 state court to have no ownership interest in the freight easement. GNP RLY, Inc.(“GNP”)
19 again became the owner and STB-licensee for the line. GNP did not resume rail service
20 and subsequently abandoned and railbanked the “freight portion” from the Snohomish/King
21 County border south to Woodinville (except for a spur track). The railbanked segment
22 connects with other railbanked portions of the corridor in King County, which are being
23 developed as the “EasTrail.” GNP has no rail equipment on the line. To my knowledge,
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1 the last rail equipment was removed by BTRC shortly after it imposed an embargo effective
2 August 1, 2020.

3 9. To the best of my knowledge, no person or entity has contacted the County
4 in support of rail service or to request rail service on the remainder of the "freight portion"
5 of the line in Snohomish County. The County retained RL Banks and Associates ("RLBA")
6 to evaluate the viability of the line for freight, and RLBA could identify no shipper interest,
7 and instead determined the line non-viable. Since there is no rail operator maintaining the
8 property, Parks has taken on vegetation control, culvert maintenance and addressing
9 crossing issues. Since 2020, this has amounted to over \$25,000 in expenses per year. This
10 is a significant maintenance requirement without the benefit of public access and we believe
11 it is in the best interest of public resources to move forward with railbanking. This is
12 consistent with the original BNSF to Port deed and its "railbanking covenant," which
13 provides that once rail use has ceased, termination of the STB operating license and
14 railbanking railbanking is appropriate.
15
16

17 10. The EasTrail is a multijurisdictional effort to coordinate trail development across
18 King County and into Snohomish County. The rail line at issue in this proceeding, if
19 railbanked and developed as an interim trail, not only will complete the railbanking of the
20 Eastside Rail Corridor (which extended to Renton in King County) by encompassing and
21 thus preserving the remaining portion in Snohomish County, but also will serve as a southern
22 extension of Snohomish County's existing Centennial Trail. Snohomish County operates
23 and maintains the developed portion of the Centennial Trail, which extends from the Skagit
24 County line to the City of Snohomish. This north/south "spine" is the core of Snohomish
25
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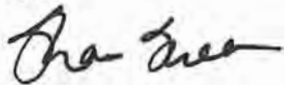
1 County's regional trail system and connects to the Whitehorse Trail (to be fully developed
2 between the City of Arlington and Town of Darrington), the planned Snohomish River Trail
3 and Snoqualmie Valley Trails and, by extension of these corridors, the Interurban Trail and
4 the North Creek Trail extending into King County.

5 11. Interest in development of regional trails is strong in Snohomish County and
6 the region. In public interest surveys related to park infrastructure in which the public would
7 like the County to invest, 'trails' consistently rank as number one as most desired facilities.
8 The County has invested significant efforts over the last thirty plus years to develop the
9 current 27-mile section of the Centennial Trail, is actively developing the Whitehorse, North
10 Creek and Snohomish River Trails, and is a partner in both the Leafline and EasTrail
11 Coalitions – seeking to provide a connected regional system. At this time, railbanking the
12 Eastside Rail Corridor, to allow interim trail use but also potential future rail use is a prudent
13 approach as population density increases north of Woodinville. Railbanking and trail use
14 on the County's portion of the Woodinville Subdivision would allow meaningful public use
15 of the corridor, link to other trails, fulfill a regional trail need, provide opportunities for non-
16 motorized transportation and provide a regional asset by linking key sections of Snohomish
17 County's regional trail network (e.g., the Centennial Trail on the north end of the line at
18 issue in this STB proceeding) with the EasTrail in King County at the south end of the line
19 at issue here. Since freight rail use has ceased, the County wishes efficiently to implement a
20 valuable alternative public use (interim trail use and railbanking) for the line at issue. The
21 County has entered into a settlement agreement with GNP RLY, Inc., so providing, subject
22 to STB authorization, which the County respectfully requests.
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1 Pursuant to 28 USC 1746, I certify under penalty of perjury under the laws of the
2 United States of America that the foregoing is true and correct to the best of my knowledge
3 and belief.
4

5 Signed this 6th day of October, 2023 at Snohomish, Washington.
6

7 By:

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10 SHARON SWAN, Director

11 Snohomish County Parks
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EXHIBIT A



EASTSIDE COMMUNITY RAILWAY REBUILDING CONNECTIONS

6 June 2016

Snohomish County Council

Re: Eastside Rail Corridor – Why maintaining freight matters

Dear Council Members,

This letter is to provide information regarding the fate of the Eastside Rail Corridor and the importance of maintaining freight service. If the council does not act by July 30th to seek federal freight railroad grants, Ballard Terminal Railroad Co. will abandonment the line.

I have contacted dozens of freight and excursion operators around the country, and none of them will consider operating this line without government sponsored track rehabilitation and there is not enough freight to get anyone to take freight alone. Excursion must quickly be added to the traffic on the line for the Snohomish segment to become viable.

Thus, the question before the council is simple; does Snohomish County want an excursion service on this line, which also enables future commuter options? If yes, then the council must act quickly.

There are two components to the needed resolution; first, the county must agree to be a sponsor for railroad grants – state or federal with all due precautions; second, the county must pay for the application preparation, including necessary inspections and estimates (rough guess \$400K) and at the time of actual application (\$100K). (see attached resolution for your consideration)

Importantly, Eastside Community Rail possess a NEPA Categorical Exclusion for this rail work.

First, we totally understand that budget matters are very tight in the county now, which also means it is difficult to find funds for investments regardless the size. That said the county, especially as a new owner, has an opportunity to keep the door open for excursion and commuter in the future by pursuing a federal offer of financial assistance. Such state and federal grants are ONLY available with freight on the line. Think of any freight as the catalyst for much larger passenger opportunities. Since the corridor is outside Sound Transit's taxing district, there is no federal passenger money available for this line – none. It's now or never if the county wants to ever use this rail line.

Second, we understand the county's perspective that only its tax dollars really matter, i.e. "the color of money." As it relates to any government funds for public works, from a taxpayer perspective, the color of money is green coming out of our wallets. It makes me cringe when staff does not appreciate that citizens really do care about the overall cost regardless of the tax source "color."

The parks department would have the county simply rail bank the line after abandonment and wait. After all, what is wrong with the federal government, us taxpayers, paying the trail conversion to the

adjacent property owners? What is wrong is that there is less than a 3% chance of rail service ever coming back. Therefore, if you rail bank this line now, you will very likely never see another train.

Although it is unfortunate that Spectrum Glass is closing down, we believe that their freight volume can be replaced given the tracks are rehabilitated to Class 2 status, which also enables passenger rail, i.e. excursion and commuter in the future. Further, there has been no commercial marketing of Maltby as an Industrial Rail Center, which is a significant opportunity in itself. At the state level, Snohomish County only has the Arlington branch to turn new companies to, but notice all of the large vacant buildings. BNSF does not want to provide service on its short line branches, which was the number 2 reason they sold to the Port. The number 1 reason was the \$450M tax credit we taxpayers gave them along with \$81M in cash, we taxpayers borrowed the \$450M since BNSF didn't have to pay those taxes.

Add the \$480M the federal government paid the corridor landowners south of I-90, and the Eastside Rail Corridor has cost the taxpayers over \$1,000,000,000. The council has an opportunity to show King County and the country how rail and trail can work together AND be cost effective.

Our preliminary analysis on land ownership is opposite county staff. The county believes that 85% of the line would require federal payments to rail bank the line, but our analysis based on the old and original railway maps show the exact opposite that the county now owns 85% of the corridor property. Given the county's trail will not be entirely in the corridor, the resulting title issue may be less than 5% of the corridor's length, and the railroad can fix that problem.

Without freight on the line no state or federal grants are available, which means the county would have to pay for the entire track rehabilitation itself. Rail banking is NOT the answer. Less than 3% of such lines ever go back in service.

The King County Eastside Rail Corridor Regional Advisory Council determined that all five of the most analogous corridors in the country ALL have active rail with trails. With this in mind, federal grants for freight railroad can help build a gravel "maintenance of way road" along the corridor capable of supporting emergency equipment (a solid substructure), and the county can "finish" it as a trail when additional money becomes available. We totally fail to understand why staff has not embraced this approach as faster and FAR less costly, which matters to today's taxpayers.

We have a website, www.esccrail.org, coming up next week with plenty of factual data for public consideration. I strongly recommend that you speak with Robert Ardolino of Urban Innovations directly, who has been vetted by staff as an expert regarding federal railroad grants. (412-400-9464) Bruce Agenew, Luis Moscoso and Karen Guzak can provide you with their insights as well.

Attached is a draft resolution for your consideration. In order to keep Ballard delivering freight on this line, such a resolution must be completed by July 30th.

Thank you for your consideration,

Douglas Engle
Manager
Eastside Community Rail, LLC

Example County Resolution

RESOLUTION # _____

COUNCIL RESOLUTION TO SPONSOR AND FUND GRANT APPLICATIONS FOR REHABILITATION OF THE FREIGHT RAIL INFRASTRUCTURE IN THE EASTSIDE RAIL CORRIDOR

WHEREAS: The Snohomish County governmental authority is charged with furthering county transportation, parks and recreation, economic revitalization, and maximizing development of the Eastside Rail Corridor for public benefit; and

WHEREAS: Snohomish County has interest in unique, innovative and entrepreneurial solutions dedicated to saving and creating sustainable manufacturing jobs, vital for successful families, strong communities and a high quality of life for its citizens; and

WHEREAS: Eastside Community Rail ("ECYR") and its owners possess the exclusive freight easement for the County's segment of the Eastside Rail Corridor and has invested substantially to maintain freight operations to date. Ballard Terminal Railroad Company currently operates freight on the line for ECYR; and

WHEREAS: The Eastside Rail Corridor Rail Rehabilitation Project ("PROJECT"), whose freight operations started operations in 2010 and operates 12 miles of track in the county, with 2.5 miles of line extending into Woodinville. PROJECT's multiple connections offer a wide variety of options for freight shipments, allowing industries to maximize transportation savings, and includes warehouse and transloading network that offers the ability to deliver products to firms that aren't rail-served. PROJECT offers rail service to a wide variety of existing, green and brownfield sites in the County; and

WHEREAS: PROJECT plans to develop a new passenger rail line, e.g. an excursion line, utilizing its existing freight rail line, from the City of Snohomish to Woodinville; and

WHEREAS: PROJECT has a vision for a sustainable multi-modal rail system that could employ a considerable number of living wage jobs, including union jobs and jobs for low-income neighborhoods in Maltby, Snohomish and surrounding communities; and

WHEREAS: PROJECT would be engaged in advancing regional economic growth through enhancing and improving regional transportation and improving real estate development pertaining to a number of prospective freight and passenger stations; and

WHEREAS: Creating a preliminary PROJECT master plan for the development of freight, passenger rail, utilities and trail within the rail corridor would maximize local and regional impact, bringing together potential new customers with property owners, local industrial development agencies, and other key players in the industrial development process, thereby providing significant business for local manufacturers, contractors and related companies, as well as generating positive economic and environmental impacts; and

WHEREAS: ECYR and Snohomish County are aligned in the general PROJECT goal of dynamic economic development for the County by creating quality jobs that are environmentally sustainable; and

WHEREAS: PROJECT and its political and business allies in the County are likely to achieve success in obtaining federal and state grant commitments to rehabilitate the track, substructure and drainage, crossings and bridges for freight and passenger use; and

WHEREAS: PROJECT is interested in partnering ECYR and its partners with Snohomish County in assisting in the application creation, provisions and further utilization of documents for future use; and

WHEREAS, ECYR and its partners might also be helpful in later stages of the Project, and might be able to lever its investment relationships with responsible investors who own significant assets that could be employed in passenger use, infrastructure, real estate, energy, private capital, energy efficiency, efficient transportation and other means.

NOW, THEREFORE BE IT RESOLVED that the Council of Snohomish County authorizes its Parks and Recreation Department ("PARKS") to complete a PROJECTS agreement with ECYR for execution of PROJECT with the following principles:

1. PARKS will provide county authority and act as recipient sponsor so as to enable PROJECT to apply for state, federal and other grants and resources in a timely manner; and
2. PARKS will immediately fund necessary inspections, application creation and administration by ECYR estimated at \$400,000 (four hundred thousand dollars), County administration expenses, and separate application fees estimated at \$100,000 (one hundred thousand dollars) for PROJECT in pursuing the rail rehabilitation and improvement process, provisions and grants at +/- 10% of the estimate; and
3. PROJECT via achieved grants will contribute adequate funds to PARKS to enable the County to recoup application funds as available and administer their project obligations; and
4. PARKS and PROJECT will operate in good faith as they work together to perform all research and analysis necessary to apply for the financial funding of the PROJECT so as to quickly move forward; and
5. PROJECT is committed to constructing a high performing, environmentally sustainable rail and related freight projects, and is committed to a partnership that fits into the larger County vision for corridor development; and
6. PROJECT will complete railway works in alignment with the Federal Railroad Administration rules and regulations; and
7. PARKS and PROJECT will operate in good faith to obtain all federal permits required for freight rail rehabilitation and improvement projects; and
8. PARKS and PROJECT will act where time is of the essence in all matters; and
9. PARKS will provide ongoing reports on the timelines and progress of the PROJECT.

Attachment 6

Section 1152.25(c) Affidavit re: compliance
with Section 1152.20 notice requirements

Affidavit of Publication, Everett Daily Herald

Section 1152.24(b) Affidavit relating to Compliance
With Section 1152.20 Notice Requirements in STB docket AB 1331

State of Washington ss.

County of King

Charles H. Montange (“affiant”) makes oath and says that he is rail counsel for Snohomish County [Applicant for Adverse Abandonment authority in Surface Transportation Board (STB) docket AB 1331], and that Snohomish County has complied with all applicable notice requirements set forth in 49 C.F.R. 1152.20 as follows:

(a)(1). Service on the Board by certified letter per section 1152.20(a)(1) was waived by the Board in its May 23, 2023 decision (slip op. at p. 4) in this proceeding, but provided inter alia by electronic means on **September 19, 2023** (see STB document 307160 filed in AB 1331 on that date and publicly available on STB’s website).

(a)(2). This Board exempted Snohomish County from certain service requirements (e.g., significant users, Amtrak, labor organizations) in its May 23, 2023 decision (slip op. at p. 4) in this proceeding. Snohomish County complied with all 1152.20(a)(2) service requirements from which it was not exempted by placing copies of the notice of intent with the U.S. Postal Service, postage pre-paid first class (except certified mail was used for the Governor), on **September 19, 2023**, addressed to the following individuals or entities, as further set forth in the certificate of service already filed with the Board in this proceeding in STB document 307160, supra:

Governor Jay Inslee
Office of the Governor
P.O. Box 40002
Olympia, WA 98504-0002 [certified mail]

[1]

Washington State Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250
[also courtesy copy by email to Cal.stocking@utc.wa.gov]

Ms. Vicki McCracken
Associate Dean and Director, Extension
Washington State University
PO Box 646248
Hulbert Hall, Room 411
Pullman, WA 99164-6248

U.S. Department of Transportation – Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, D.C. 20590

U.S. Dept. of Defense,
SDDCTEA
Railroads for the National Defense Program
One Soldier Way, Building 1900W
Scott AFB IL 62225-5006

United States Department of the Interior
National Park Service
Recreation Resources Assistance Division
1849 C Street NW
Washington, D.C. 20240

Program Manager
Rivers, Trails and Conservation Assistance Program
333 Bush Street, Suite 500
San Francisco, CA 94104

Regional Program Manager
Federal Lands to Parks Program
National Park Service
909 First Avenue, 5th Floor
Seattle, Washington 98104

United States Railroad Retirement Board
William O. Lipinski Federal Building
844 North Rush Street
Chicago, IL 0611-1275

Chief, U.S. Forest Service
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20250-0003

(a)(3) This Board waived posting requirements per its May 23 decision (slip op. p. 4) in this proceeding.

(a)(4) Snohomish County supplied newspaper notice via the Everett Herald by publication on three consecutive weeks and more particularly on **September 19 and 26 and October 3, 2023**, per the Affidavit of Publication provided herewith.

(c) Snohomish County submitted its Environmental and Historic Reports to the Board on **August 18, 2023**. See STB document EI 33036, publicly available on the STB website under environmental comments in AB 1331.

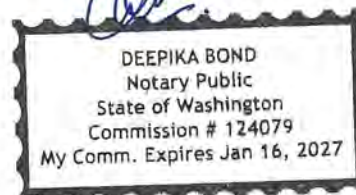
The undersigned affiant attests that to the best of his knowledge, information and belief, (1) the dates of service and publication and the date of submission are all in compliance with the time limitations and other requirements specified in 49 C.F.R. 1152.20 (as modified by this Board's May 23 decision in this proceeding) for purposes of an Adverse Abandonment Application to be filed on October 17, 2023, and (2) all representations contained herein are true and correct.



Charles H. Monrange
Law Offices of Charles H. Monrange
426 NW 162d
Seattle WA 98107

Subscribed and sworn to before me, Notary Public in and for the State and County above named, this 12th day of October, 2023.

My commission expires: 01/16/2027



Everett Daily Herald

Affidavit of Publication

State of Washington }

County of Snohomish } ss

Michael Gates being first duly sworn, upon oath deposes and says: that he/she is the legal representative of the Everett Daily Herald a daily newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a daily newspaper in Snohomish County, Washington and is and always has been printed in whole or part in the Everett Daily Herald and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Snohomish County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of EDH984233 NOTICE OF INTENT as it was published in the regular and entire issue of said paper and not as a supplement form thereof for a period of 3 issue(s), such publication commencing on 09/19/2023 and ending on 10/03/2023 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is \$655.65.

Subscribed and sworn before me on this 4th day of October.

2023

Linda Phillips

Notary Public in and for the State of Washington.

Snohomish County Parks & Recreation / 86025475
SHARON SWAN



Notice of Intent
STB Docket No. AB 1331
Snohomish County – Adverse Abandonment – GNP RLY, Inc.,
in Snohomish County, Wash.

Snohomish County ("Applicant"), a political subdivision of the State of Washington, gives notice that on or about October 17, 2023, it intends to file with the Surface Transportation Board ("STB" or "Board"), Washington, D.C., 20423, an Application for Adverse Abandonment of a line of railroad that extends from Milepost (MP) 38.25 at City of Snohomish to MP 26.38 (Snohomish/King County line), which traverses through United States Postal ZIP Codes (ZIP Codes) 98296 and 98072 and 98290, a total distance of approximately 11.9 miles, in Snohomish County, WA (hereinafter "Line"). There are no stations on the Line.

The reason for the proposed abandonment is to obtain a determination that public convenience and necessity require and permit abandonment of the federal interest/common carrier obligation in the Line. The Port of Seattle originally acquired all of the interests of BNSF Railway in the Line, inclusive of track and ties, except for BNSF's retained exclusive freight rail easement. The Port subsequently conveyed its interests to Applicant. BNSF conveyed its exclusive freight rail easement to GNP RLY, Inc. The County claims the easement is subject to a covenant running with the land that requires GNP (or any other successor to BNSF) to cooperate in an adverse abandonment proceeding brought by the Port (or any successor to the Port, such as Applicant) and also to agree to interim trail use and railbanking upon request. The County claims that rail use ceased on this Line over 2-1/2 years ago. The County claims there is no reasonable prospect for resumption of rail service in the foreseeable future. Applicant as successor to the Port owns underlying real estate interests, and track and ties, and wishes access to its property to implement trail use and other compatible public uses on its property.

The line may contain federally granted rights-of-way. Any documentation in Applicant's possession will be made available promptly to those requesting it.

The interest of railroad employees, if there are any employees, will be protected by the conditions set forth in Oregon Short Line Railroad – Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

The application will include Applicant's entire case for abandonment. The application, when filed, can be viewed on the Board's webpage, www.stb.gov, or a copy can be secured from Applicant's counsel, whose name and address appear below. Any interested person, after the application is filed on or about October 17, 2023, may file with the STB written comments concerning the proposed abandonment or protests to it. These filings are due 45 days from the date of filing of the application. All interested persons should be aware that following any abandonment of rail service, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (49 C.F.R. 1152.28 of the Board's rules) and any request for a trail use condition under 16 U.S.C. 1247(d) (49 C.F.R. 1152.29 of the Board's rules) must be filed within 45 days after the application is filed.

Persons who may oppose the adverse abandonment but who do not wish to participate fully in the process by appearing at any oral hearings or by submitting verified statements of witnesses, containing detailed evidence, should file comments. Persons interested only in seeking public use or trail use conditions should also file comments. Persons opposing the proposed abandonment that do wish to participate actively and fully in the process should file a protest. Protests must contain that party's entire case in opposition (case in chief) including the following: (1) Protester's name, address and business; (2) A statement describing protester's interest in the proceeding including: (i) A description of protester's use of the Line; (ii) If protester does not use the Line, information concerning the group or public interest it represents; and (iii) If protester's interest is limited to retention of service over a portion of the Line, a description of the portion of the Line subject

to protestant's interest (with milepost designations if available) and evidence showing that the applicant can operate the portion of the Line profitably, including an appropriate return on its investment for those operations. (3) Specific reasons why protestant opposes the application including information regarding protestant's reliance on the involved service [this information must be supported by affidavits of persons with personal knowledge of the fact(s)]. (4) Any rebuttal of material submitted by Applicant.

In addition, a commenting party or a protestant may provide a statement of position and evidence regarding:

- (i) Environmental impact;
- (ii) Impact on rural and community development;
- (iii) Suitability of the property for other public purposes pursuant to 49 U.S.C. 10905;
- (iv) Recommended provisions for the protection of the interests of employees; and
- (v) Prospective use of the right-of-way for interim trail use and railbanking under 16 U.S.C. 1247(d) and 49 C.F.R. 1152.29.

Written comments and protests will be considered by the Board in determining what disposition to make of the application. The commenting party or protestant may participate in the proceeding as its interests may appear.

If an oral hearing is desired, the requester must make a request for an oral hearing and provide reasons why an oral hearing is necessary. Oral hearing requests must be filed with the Board no later than 10 days after the application is filed.

Those parties filing protests to the proposed abandonment should be prepared to participate actively either in an oral hearing or through the submission of their entire opposition case in the form of verified statements and arguments at the time they file a protest. Parties seeking information concerning the filing of protests should refer to 49 C.F.R. 1152.25.

Written comments and protests, including all requests for public use and trail use conditions, should indicate the proceeding designation STB No. AB-1331, and must be filed with the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, 395 E Street, SW, Washington, DC 20423-0001, no later than December 1, 2023 (i.e., 45 days after the date Applicant intends to file its application). Interested persons may file a written comment or protest with the Board to become a party to this abandonment proceeding. A copy of each written comment or protest must be served on the representative of the Applicant (Charles H. Montange, Law Offices of Charles H. Montange, 426 NW 162nd St., Seattle, WA 98177, (206) 545-1936, email: c.montange@frontier.com). Every comment or protest shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment proceeding. 49 C.F.R. 1104.12(a).

Pursuant to STB's order in this proceeding served May 23, 2023, this Board has exempted this proceeding from the provisions of 49 U.S.C. 10904 (OFA's).

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment and discontinuance regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Office of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Office of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Published: September 19, 26; October 3, 2023. EDH984233

Attachment 7

Environmental Report/Historic Report (AECOM)

All Comments Received on ER/HR



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

August 18, 2023

To: Attached Service List

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse Abandonment GNP Rly. Inc., in Snohomish County, WA

AECOM sends this letter on behalf of Snohomish County (“the County”). On or shortly after October 17, 2023, the County expects to be filing with the Surface Transportation Board (STB) a third-party, or “adverse,” application for abandonment, pursuant to 49 Code of Federal Regulations (CFR) Part 11252, Subpart C, as modified by the decision served May 23, 2023 in STB Docket AB 1331, seeking to abandon 11.9 miles of freight rail easement in Snohomish County, Washington, between Mileposts 26.38 (Snohomish/King County line) and 38.25 (City of Snohomish). The County advises that it also intends to railbank the entire line in accordance with 49 CFR 1152.29. Attached is a combined Environmental and Historic Report describing the proposed action and any expected environmental and/or historic effects, as well as a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the STB’s independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the STB’s environmental review process, please contact the Office of Environmental Analysis (OEA), STB, Washington, DC 20423, telephone 202-245-0294 and refer to Docket No. AB 1331. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to OEA (with a copy to me and Charles H. Montange, the County’s representative) would be appreciated within 3 weeks.

Your comments will be considered by the STB in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are questions concerning this proposal, please contact Snohomish County’s representative directly. He may be contacted by telephone at 206-546-1936 or by mail at Law Offices of Charles H. Montange, 426 NW 162nd St., Seattle (Shoreline), WA 98177.

Sincerely,

Kim Anderson
Ecologist and Project Manager
Kimberly.anderson@aecom.com; 206-724-6023

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of August, 2023 I served a copy of the attached Environmental/Historic Report on the persons listed below by email.

AGENCY SERVICE LIST

AGENCIES	
Kerri Woehler, Director Washington Department of Transportation Multimodal Planning Division P.O. Box 47370 Olympia, WA 98504-7370 Kerri.Woehler@wsdot.wa.gov	Mike McCrary, Director Snohomish County Planning and Development Services 3000 Rockefeller Avenue Everett, WA 98201 m.mccrary@snoco.org
Brooke Eidem, Planning Director City of Snohomish Planning and Development Services Department P.O. Box 1589 Snohomish, WA 98290 eidem@snohomishwa.gov	Robert Grumbach City of Woodinville Development Services Department 17301 - 133rd Ave NE, Woodinville, WA 98072 robertg@ci.woodinville.wa.us
Dave Somers Snohomish County Executive Chinook Office Building 3000 Rockefeller Avenue M/S 407 Everett, WA 98201 Dave.somers@snoco.org	Josh Brown Executive Director Puget Sound Regional Council 1011 Western Avenue, Suite 500 Seattle, WA 98104 jbrown@psrc.org
Communications and Outreach Branch NOAA, N/NGS12 National Geodetic Survey, SSMC3 #8716 1315 East-West Highway Silver Spring, MD 20910-3282 ngs.infocenter@noaa.gov	Terry Cosby USDA NRCS Office of the Chief 1400 Independence Ave., SW Room 6149-S Washington, DC 20250 terry.cosby@usda.gov
Lynn Khuat Resource Conservationist NRCS Renton Service Center 941 Powell Ave SW, Suite 102 Renton, WA 98057 lynn.khuat@usda.gov	Loreé Randall Federal Consistency Coordinator Washington State Coastal Zone Management Program P.O. Box 47600 Olympia, WA 98504 lore.randall@ecy.wa.gov

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Meg Bommarito Regional Planner Washington Department of Ecology Northwest Regional Office P.O. Box 330316 Shoreline, WA 98133-9716 Meg.Bommarito@ecy.wa.gov	Mae Ancheta U.S. Army Corps of Engineers Seattle District P.O. Box 3755 Seattle, WA 98124-3755 mae.p.ancheta@usace.army.mil
Casey Sixkiller Acting Administrator U.S. EPA, Region 10 1200 Sixth Avenue, Suite 155 Seattle, WA 98101 sixkiller.casey@epa.gov	Maureen Elenga Transportation Reviewer Washington Department of Archaeology & Historic Preservation P.O. Box 48343 Olympia, WA 98504-834 Maureen.Elenga@dahp.wa.gov
TRIBES	
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Dennis Lewarch Tribal Historic Preservation Officer Suquamish Tribe P.O. Box 498 Suquamish, WA 98392 dlewarch@Suquamish.nsn.us	Kerry Lyste Tribal Historic Preservation Officer Stillaguamish Tribe P.O. Box 277 Arlington, WA 98223 klyste@stillaguamish.com
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Josephine Jefferson Tribal Historic Preservation Officer Swinomish Indian Tribal Community 11367 Moorage Way La Conner, WA 98257 jjefferson@swinomish.nsn.us	

Before the
SURFACE TRANSPORTATION BOARD
Docket No. AB 1331
SNOHOMISH COUNTY—ADVERSE ABANDONMENT—GNP RLY, INC., IN
SNOHOMISH COUNTY, WASHINGTON

ENVIRONMENTAL/HISTORIC REPORT

Snohomish County submits this combined Environmental/Historic Report in compliance with the requirements of 49 Code of Federal Regulations (CFR) §§ 1105.7 and 1105.8. As described herein, the proposed abandonment will not significantly impact the quality of the human environment.

ENVIRONMENTAL REPORT

1. PROPOSED ACTION AND ALTERNATIVES

Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

Snohomish County (the County) proposes to file a third-party (or “adverse”) application to abandon (and railbank) an 11.9-mile segment of freight rail easement in Snohomish County, Washington (Snohomish Segment, line). A map of the project area is attached as Appendix A. The Snohomish Segment runs between Milepost 26.38 at the King-Snohomish county boundary line and Milepost (MP) 38.25 at Commercial Street in the City of Snohomish. The Snohomish Segment is the northernmost portion of the Eastside Rail Corridor (also referred to herein as the “freight segment”), a 14.45-mile rail line running between the City of Snohomish and Woodinville, Washington. The proposed action relates only to the Snohomish County portion of the freight segment. The Woodinville portion of the freight segment (MP 23.8 to MP 26.38) was abandoned and railbanked in another proceeding (STB Docket 1316X).

Rail use of the northernmost portion of the segment at issue in this proceeding (i.e., roughly MP 38 near the Burlington Northern Santa Fe [BNSF] east-to-west mainline north to MP 38.25) ceased more than two decades ago. By 2009, when the freight segment was acquired by the Port

of Seattle (Port) subject to a BNSF-retained exclusive freight rail easement, there was no overhead traffic and local traffic was dropping off. GNP Rly, Inc. (GNP), acquired the easement from BNSF and went bankrupt soon thereafter, with its assets being sold to Eastside Community Rail (ECR).

To Snohomish County's knowledge, neither GNP nor ECR owned rail equipment, and both relied on Ballard Terminal Railroad Company (BTRC) to operate the line as lessee. In 2016, the freight segment lost a major shipper (Spectrum Glass), which shifted its operations out of state. Rail use was embargoed for a period in 2019 due to a damaged bridge. All rail use of the segment ceased no later than August 1, 2020, when BTRC embargoed the line due to "track conditions."¹ There have been no shipments on the line since that date, and BTRC withdrew its equipment from the line in mid-August 2020. Prior to the embargo, BTRC transported sand and pellets for glass making (until about 2016 when Spectrum Glass moved its operations), lumber, and drywall on or over the Snohomish Segment for a handful of customers in Maltby (Snohomish County) and Woodinville (King County). In December 2020, the Board vacated the acquisition and operating exemption of ECR and the lease and operating exemption of BTRC. The sole entity licensed to own and operate the freight segment at that point was, again, GNP, under different ownership.²

The County has no plans to salvage the track and ties at this time. The Snohomish portion of the freight segment includes a rail overcrossing over State Route 522, a steel truss bridge over the Snohomish River, and six wood trestle bridges that cross over agricultural lands, Batt Slough, and Connelly Road. The County does not have any plans to remove these structures at this time.

There is no practical alternative to abandoning or railbanking the Snohomish Segment. Costly rehabilitation due to prolonged periods of deferred maintenance would be required to support resumption of rail operations. The Snohomish portion of the freight segment lacks service demand, and especially service demand adequate to amortize the cost of rehabilitating and maintaining the line, or even to cover operating expenses.

¹ The embargo covered the entire Eastside Rail Corridor, between the City of Snohomish at MP 38.25 and the south end of the Woodinville Segment at MP 23.8. *See* Embargo No. ECYR000120, copy attached to Snohomish County Motion For Leave to File Notice and Notice of Recent Developments (Embargo), FD 35692 and FD 35730 (filed August 6, 2020).

² *Eastside Community Rail, LLC – Acquisition and Operation Exemption – GNP RLY, Inc., FD 35692 and 35730 (served Dec. 22, 2020).*

2. EFFECTS ON THE TRANSPORTATION SYSTEM

Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

The proposed abandonment will have no effect on regional or local transportation systems or patterns because there has been no traffic on the freight segment for more than 3 years. The entire line was embargoed effective August 1, 2020, due to track conditions. There has been no traffic since that date. Consequently, no traffic will be diverted from rail to other transportation systems as a result of the proposed action.

The County sent a consultation letter regarding the proposed abandonment to the Washington State Department of Transportation (WSDOT), Multimodal Planning Division. (Appendix B). As of the date of this Environmental Report, WSDOT has not responded to our inquiry.

3. LAND USE

- (i) ***Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with land use plans. Describe any inconsistencies.***

The proposed action is consistent with existing land use plans. The County sent a consultation letter to Snohomish County Planning and Development Services Department, City of Snohomish Planning and Development Services Department, City of Woodinville Development Services Department, the Snohomish County Executive, and the Puget Sound Regional Council (PSRC) regarding the proposed abandonment (Appendix B). As of the date of this Environmental Report, none of these agencies have responded to our inquiry.

The County sent a consultation letter regarding the proposed abandonment to the National Oceanic and Atmospheric Administration (NOAA) National Geodetic Survey (NGS) (Appendix B). On July 13, 2023, Deborah Brooks at NGS responded via email that there could be geodetic survey marks located in the project area, and that any marks still present could be disturbed by the abandonment. However, any disturbance would be associated with salvage, which is not being proposed as part of this action (Appendix C). AECOM reviewed the National Geodetic Server Explorer (<https://geodesy.noaa.gov/NGSDataExplorer/>) and determined that the closest survey mark is approximately 900 feet west of the line, off Airport Way south of the Snohomish River. On July 21, 2023, Deborah Brooks sent a follow-up response via email that the NGS found no geodetic markers along the track segment that would be jeopardized by the proposed abandonment (Appendix C).

The County sent a consultation letter regarding the proposed abandonment to the Washington Recreation and Conservation Office (RCO) (Appendix B). On July 13, 2023, Megan Duffy at the Washington RCO responded via email that a review of the relevant properties had been conducted and the office had no comments.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

The Snohomish Segment crosses urban industrial, rural residential, and agricultural lands. Most of the northern third of the line is in or adjacent to land that is zoned by the County as Agriculture – 10 Acre (A-10), and a portion of the line crosses land that currently supports agricultural uses. Soil map units that are considered prime or other important farmland soils have been mapped along most (10.6 miles [89 percent]) of the line (Table 1). The railroad bed currently consists of fill material that does not support agricultural uses.

The proposed action does not include salvage of rails or ties or removal of the railroad bed. As such it will have no impact on hydrology that could impact adjacent agricultural uses or irrigation, and it will have no impact on prime agricultural soils.

Table 1. Prime and Other Important Farmland Soils Along the Snohomish Segment

Soil Map Unit	Classification	Approximate Length of Line
Alderwood gravelly sandy loam, 0 to 8 and 8 to 15 percent slopes	Prime farmland if irrigated	30,305 feet
Alderwood gravelly sandy loam, 15 to 30 percent slopes	Farmland of statewide importance	8,984 feet
Puget silty clay loam	Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season	5,468 feet
Sultan silt loam	All areas prime farmland	4,658 feet
Puyallup fine sandy loam	All areas prime farmland	2,395 feet
Kitsap silt loam, 8 to 25 percent slopes	Farmland of statewide importance	1,645 feet
Everett very gravelly sandy loam, 0 to 8 percent slopes	Farmland of statewide importance	1,384 feet
Pilchuk loamy sand	Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season	458 feet
Indianola loamy sand, 15 to 30 percent slopes	Farmland of statewide importance	264 feet
Norma loam	Prime farmland if drained	260 feet
Tokul gravelly medial loam, 0 to 8 percent slopes	All areas prime farmland	217 feet
Sumas silt loam	Prime farmland if drained	149 feet

Soil Map Unit	Classification	Approximate Length of Line
Arents, Everett material	Prime farmland if irrigated	13 feet
Everett very gravelly sandy loam, 15 to 30 percent slopes	Farmland of statewide importance	10 feet
Total		56,210 feet (10.6 miles)

Sources: NRCS Web soil survey (<https://websoilsurvey.nrcs.usda.gov/app/>), Soil Data Access Prime and other Important Farmlands (<https://www.nrcs.usda.gov/publications/Legend%20and%20Prime%20Farmland%20-%20Query%20by%20Soil%20Survey%20Area.html>)

The County sent a consultation letter to the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS), formerly known as the Soil Conservation Service, regarding the proposed abandonment (Appendix B). As of the date of this Environmental Report, NRCS has not responded to our inquiry.

(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9.

The Snohomish Segment is located within a designated coastal zone. The abandonment will have no effect on land or water uses within the coastal zone.

The County sent a consultation letter to the Federal Consistency Coordinator at the Washington Department of Ecology (Ecology) - Coastal Zone Management Program, regarding the proposed abandonment (Appendix B). As of the date of this Environmental Report, Ecology has not responded to our inquiry.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for public use under 49 U.S.C. 10905 and explain why.

The right-of-way is suitable for public use as a trail. Snohomish County intends to railbank the Snohomish Segment and to develop a trail (the Centennial Trail South) on the line, which will be part of both the existing 30-mile long Centennial Trail in Snohomish County and Eastrail, a 42-mile trail and transit project currently under development in King County. The portion of rail line at issue in this proceeding, if converted to railbanking and trail use, will link to the existing 30-mile long Centennial Trail between the City of Snohomish and the Skagit County line in the north, and to the Eastrail project from the King County line to Kennydale near Renton in King County.

4. ENERGY

(i) Describe the effect of the proposed action on transportation of energy resources.

The proposed abandonment will have no effect on the transportation of energy resources. The Snohomish Segment has no potential for overhead traffic and the line has been out of service since 2020.

(ii) Describe the effect of the proposed action on recyclable commodities.

The proposed abandonment will have no effect on the movement of recyclable commodities. The Snohomish Segment has no potential for overhead traffic and the line has been out of service since 2020.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

The Snohomish Segment has no potential for overhead traffic and the line has been out of service since 2020. As such, the proposed abandonment/railbanking will have no effect on overall energy efficiency.

(i) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year; or

(B) An average of 50 rail carloads per mile per year for any part of the affected line,

quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in § 1105.7(e)(4)(iii) need not be supplied if the more detailed information in § 1105.7(e)(4)(iv) is required.

The Snohomish Segment currently has no traffic, and the proposed abandonment will not divert any traffic from rail to motor carriage. Based on a record of car counts for the years 2016 through 2019, the largest number of rail cars using the line was 106 (in 2016 and 2018). Even if all railcars that used the line over these 4 years were diverted to motor carriage, the volume of traffic diverted would not approach either of the thresholds quoted above.

5. AIR

- (i) *If the proposed action will result in either:*
- (A) *An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or*
 - (B) *An increase in rail yard activity of at least 100 percent (measured by carload activity), or*
 - (C) *An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under [49 U.S.C. 10901](#) (or 10502) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.*

The Snohomish Segment has no potential for overhead traffic, the line has been out of service since 2020, and the proposed action is abandonment. As such, the proposed action will not result in an increase in rail traffic, rail yard activity, or truck traffic exceeding any of the thresholds quoted above.

- (ii) *If the proposed action affects a Class I or nonattainment area under the Clean Air Act, and will result in either:*
- (A) *An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,*
 - (B) *An increase in rail yard activity of at least 20 percent (measured by carload activity), or*
 - (C) *An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under [49 U.S.C. 10901](#) (or [49 U.S.C. 10502](#)), or a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.*

For reasons noted in subsection (i) above, the proposed action will not result in any increase in rail or truck traffic exceeding any of the thresholds quoted above. The proposed abandonment will not affect any Class I or nonattainment area.

- (iii) *If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.*

For reasons noted in subsection (i) above, the proposed abandonment will not affect the transportation of ozone depleting materials.

6. NOISE

If any of the thresholds identified in item (5)(i) of this section(49 CFR 1105.7(e)(5)(i)) are surpassed, state whether the proposed action will cause:

- (i) *An incremental increase in noise levels of three decibels Ldn or more; or*
- (ii) *An increase to a noise level of 65 decibels Ldn or greater.*

If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

Not applicable. None of the thresholds in 49 CFR 1105.7(e)(5)(i) will be surpassed as a result of the proposed action.

7. SAFETY

- (i) *Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).*

The abandonment will have no adverse effect on public health and safety. There are five public at-grade crossings and eight private at-grade crossings on the Snohomish Segment. The proposed abandonment does not include salvage operations or any other actions at at-grade crossings.

- (ii) *If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.*

The proposed abandonment will not result in the transportation of hazardous materials.

- (iii) *If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.*

There are no known active hazardous waste sites or hazardous materials spill sites on the right-of-way.

According to Ecology's "What's in my Neighborhood" mapper, a single active Voluntary Cleanup Program site (Knoll Lumber, 23605 Woodinville-Snohomish Rd) is mapped immediately adjacent to, the line. The Knoll Lumber Site is a petroleum products soil contamination site associated with its former use as an auto wrecking yard. The contamination was identified in 1998 and voluntary cleanup occurred in 1999.

One historical Independent Remedial Action Program (Eastside Rail Spill, RR mile 34.3 and Connelly Rd) is documented on the right-of-way. The Eastside Rail Spill was an unspecified petroleum products soil contamination site that was identified in February 2020, and remediated in July 2020. The site status was changed to No Further Action on July 7, 2020.

8. BIOLOGICAL RESOURCES

- (i) *Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.*

The proposed action is not likely to adversely affect endangered or threatened species or areas designated as critical habitat. The County's consultant used the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) website, the NOAA Fisheries Protected Resources App, the Washington Department of Fish and Wildlife (WDFW) Priority Habitat and Species website and the Statewide Integrated Fish Distribution data set to obtain information on threatened and endangered species potentially present in the vicinity of the Snohomish Segment. Information on these species is presented in Table 2.

Table 2. Threatened and Endangered Species Potentially Present in the Project Area

Species Common Name <i>Scientific Name</i>	Federal Status	Nearest Suitable Habitat	Proposed Effects Determination	Rationale
Chinook Salmon <i>Oncorhynchus tshawytscha</i> Puget Sound ESU	Threatened	Snohomish River; Evan's Creek, Batt Slough, and several unnamed streams	No Effect	No in-water work; no impacts on wetlands; project will not degrade water quality. No salvage activities will occur. Culverts carrying streams under the right-of-way will be left in place.
Steelhead	Threatened	Snohomish River; Evan's	No Effect	

Species Common Name <i>Scientific Name</i>	Federal Status	Nearest Suitable Habitat	Proposed Effects Determination	Rationale
<i>Oncorhynchus mykiss</i> Puget Sound ESU		Creek, Batt Slough, and several unnamed streams		
Bull Trout <i>Salvelinus confluentus</i>	Threatened	Snohomish River; Evan's Creek, Batt Slough, and several unnamed streams	No Effect	
Marbled Murrelet <i>Brachyramphus marmoratus</i>	Threatened	None in vicinity	No Effect	No old-growth forest habitat occurs within the right-of-way or vicinity. Suitable habitat and critical habitat for the murrelet do not occur within the right-of-way or vicinity.
Streaked Horned Lark <i>Eremophila alpestris strigata</i>	Threatened	Areas of low/sparse grassy vegetation associated with Harvey Airfield, agricultural sites, and the Snohomish River could potentially provide suitable habitat.	No Effect	Streaked horned lark are not documented and critical habitat does not occur within the right-of-way or vicinity. No alteration of potential suitable habitat would occur.
Yellow-billed Cuckoo <i>Coccyzus americanus</i> Western DPS	Threatened	Riparian areas along the Snohomish River could provide suitable habitat	No Effect	Yellow-billed cuckoo are not documented within the right-of-way or vicinity. This species has not been observed nesting in Washington since 1934, and only 12 sightings occurred in the state between 1950 and 2000. No alteration of potential suitable habitat would occur.
North American Wolverine <i>Gulo gula luscus</i>	Proposed Threatened	None in vicinity	No Effect	Wolverine are not documented in the right-of-way or vicinity. Suitable habitat (high elevation areas with persistent spring snow) do not occur within the right of way or vicinity.

The County sent letters to USFWS Pacific Region 1, NOAA Fisheries West Coast Regional Office, and WDFW North Puget Sound Regional Office regarding the proposed abandonment (Appendix B). As of the date of this Environmental Report, none of these agencies has responded to our inquiry, apart from an email from WDFW identifying the correct points of contact for the project.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

There are no known wildlife sanctuaries, refuges, National or State parks or forests on the right-of-way or in the vicinity.

The Bob Heirman Wildlife Park at Thomas' Eddy (on the Snohomish River) is a County-managed park located adjacent to the line. This site was cut off from the river by a levee, and the County is reconnecting the river to the floodplain.³ Other parks and designated open spaces adjacent to the line include trails and natural areas at the Brightwater Treatment Plant, Carousel Ranch Park, and Batt Slough. The proposed abandonment will have no impact on these areas or the floodplain restoration project, as no salvage activities will occur, and the railroad bed will remain in place.

The County sent a consultation letter to the National Park Service (NPS) Region 9 regarding the proposed abandonment/railbanking (Appendix B). As of the date of this Environmental Report, the NPS has not responded to our inquiry.

9. WATER

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

The Snohomish Segment includes one bridge over the Snohomish River. Several culverts carry streams under the rail corridor (including tributaries to Little Bear Creek, a tributary of the Sammamish River, and tributaries to the Snohomish River); several culverts connect wetlands; and numerous culverts carry stormwater runoff under the rail corridor for eventual discharge into Little Bear Creek or the Snohomish River. The proposed abandonment does not include salvage activities, and no work will occur on the bridge, culverts, or any portion of the line as part of this action. The action will not alter existing drainage flows, and no disturbance to the line will occur that would result in the need for stormwater permitting or management. For this reason, the project will be consistent with applicable federal, state, and local water quality standards.

The County sent a consultation letter to the Regional Coordinator at Ecology regarding the proposed abandonment (Appendix B). As of the date of this Environmental Report, Ecology has not responded to our inquiry.

³ Snohomish County Thomas' Eddy Restoration Project. <https://snohomishcountywa.gov/5816/Thomas-Eddy-Restoration-Project>

- (ii) *Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act ([33 U.S.C. 1344](#)) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.*

The proposed abandonment will not trigger any action under Section 404 of the Clean Water Act. Additionally, the abandonment does not trigger any action under Section 10 of the Rivers and Harbors Act because there would be no salvage work on the line and no work on structures in or affecting navigable waters of the U.S. The railroad right-of-way, ballast, and culverts will remain in place so as not to alter existing drainage flows. No floodplains will be affected by the proposed abandonment. The County sent a consultation letter to the U.S. Army Corps of Engineers (USACE) Seattle District regarding the proposed abandonment (Appendix B). As of the date of this Environmental Report, the USACE has not responded to our inquiry.

- (iii) *State whether permits under section 402 of the Clean Water Act ([33 U.S.C. 1342](#)) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)*

The County sent letters and emails to the U.S. Environmental Protection Agency (EPA) Region 10 and to the Ecology regarding the proposed abandonment (Appendix B). As of the date of this Environmental Report, neither EPA nor Ecology have responded to our inquiry. As described in subsection (i) above, the proposed abandonment does not include salvage activities, and no work will occur on the bridge or on culverts. The action will not alter existing drainage flows, and no disturbance to the line will occur that would result in discharge of pollutants into navigable waters. Therefore, no associated permits are needed.

10. PROPOSED MITIGATION

Describe any actions that are proposed to mitigate adverse environmental effects, indicating why the proposed mitigation is appropriate.

Snohomish County is not aware of any adverse environmental impacts of the proposed action that require mitigation.

11. ADDITIONAL INFORMATION FOR RAIL CONSTRUCTION

Not applicable

12. CONSULTATION

On June 29, 2023 AECOM on behalf of Snohomish County mailed and emailed copies of the letters attached as Appendix B to each of the following agencies and Tribes: WSDOT, NPS,

NOAA NGS, Snohomish County, PSRC, Washington RCO, USDA NRCS, EPA, USACE, WDFW, USFWS, NOAA Fisheries, Ecology, City of Woodinville, City of Snohomish, Washington State Department of Archaeology and Historic Preservation (DAHP), Muckleshoot Indian Tribe, Snoqualmie Indian Tribe, Swinomish Indian Tribal Community, Tulalip Tribes, Suquamish Tribe, Stillaguamish Tribe, Squaxin Island Tribe, and Sauk-Suiattle Tribe. Consultation with the Washington DAHP and Tribes is described in the attached Historic Report.

The only written responses received to date are from NOAA NGS, the Washington Recreation and Conservation Office, and Washington DAHP (Appendix C).

13. CERTIFICATIONS

Applicant certifies that:

- (a) It consulted with the agencies listed in 49 CFR 1105.7, as described in paragraph 12 above. See Appendix B.
- (b) On this date, it sent copies of this report to each of the agencies consulted. See the Agency Service List attached to the transmittal letter for this report.

August 18, 2023



Kim Anderson
AECOM

HISTORIC REPORT

1. *A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action.*

A map showing the location of the proposed abandonment is attached as Appendix A. Two bridges on the Snohomish Segment are more than 50 years old. Their locations are indicated on the topographic map.

2. *A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area*

The Snohomish Segment runs south to north for approximately 11.9 miles, from milepost (MP) 26.38 at the King-Snohomish County line to MP 38.25 at approximately Commercial Street, slightly north of the northern bank of the Snohomish River in the city of Snohomish.

From commencement at the Snohomish/King County line, the line runs northeast through industrial development, roughly following the path of State Route 522, to commercial uses in Maltby at SR-524 until it diverts and heads north near the intersection of 204th St SE and Cedar Street (99th Ave SE) toward the City of Snohomish. It then traverses rural residential development, descending until it meets the Snohomish River Valley floor and continues north through agricultural land until it meets the Wye south of the BNSF mainline tracks and enters industrial uses before crossing the Snohomish River into the City of Snohomish. The right-of-way for this proposed abandonment is generally characterized as traveling through lowlands and accordingly rests on fill or on trestles that vary in height. The northern portion of the line goes through an agricultural area and is primarily at grade, with some sections elevated on structures. South of the agricultural area, the line traverses undulating hills with cuts and fills as needed to meet the grade requirements. The northern terminus of the line in the City of Snohomish is surrounded by residential properties. The line formerly extended from the Snohomish/King County line southwest to MP 23.8, an area that is surrounded by commercial buildings in downtown Woodinville. The portion of line in Woodinville was previously abandoned/railbanked in another Surface Transportation Board (STB) proceeding (AB 1316X) in 2023. The right-of-way for the proposed abandonment has varying widths. In 2016, Snohomish County (“the County”) acquired interests in the underlying right-of-way from the Port of Seattle (which acquired its interests in 2009 from BNSF).

3. *Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area.*

AECOM prepared a Historic Resource Inventory of the Snohomish Segment (Appendix D). AECOM Architectural Historians Autumn Buckridge and Caitlyn Fischman conducted a field survey of the project Area of Potential Effect (APE), and conducted documentary research on Washington State's Department of Archaeology and Historic Preservation (DAHP) database to determine if the railroad, bridges, overcrossing, and other historic structures within the APE had previously been documented.

The Historic Resources Inventory Report, Appendix D, includes photos and descriptions of the rail line. Qualifying structures include the following:

- Seattle Lake Shore & Eastern (SLS&E) Segment (MP 26.38 to MP 38.25)
- AECOM considers the State Route 522 Overcrossing (Bridge Number 522/134) and the Snohomish River Bridge to be not eligible for listing on the National Register of Historic Places (NRHP). Snohomish County does not proposed to conduct salvage activities on either of the bridges that are more than 50 years old.

4. *The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known.*

The Snohomish Segment was constructed circa 1888. Six wood trestle bridges at MP 34.3, 35.9, 37.1, 37.2, 37.4, and 37.5 were also constructed circa 1888. The Snohomish River Railroad Bridge was reconstructed in 1912 (Bridge Hunter 2023). The State Route 522 Rail Overcrossing (Bridge Number 522/134) was constructed in 1962 (WSDOT 2023). The original rails, ties, and fasteners have all been replaced as part of routine maintenance, including some relocations and replacement of low trestles with fill. Several extant base plates feature makers marks dating them to 1941, 1945, 1948, 1949, and 1969. Some historical railroad switches were modified or replaced at an unknown time. The dates of rail and wood tie replacements are unknown; however, railroad ties are typically replaced every 30 to 50 years (RTA 2023). Both wood and metal ties have been used as replacements on the Snohomish Segment. There are fourteen grade crossings along the segment in a variety of materials, including concrete, asphalt, gravel, and wood. The wood grade crossing at MP 36.4 appears to retain some original design and materials, but all other crossings have been modified at unknown dates. Eight modern railroad crossing arms and lights have been installed where the segment intersects surface streets (dates unknown). The Snohomish River Bridge does not appear to have any major alteration subsequent to 1912; however, the wood ties, rails, and fasteners have likely been replaced as part of routine

maintenance. The State Route 522 overcrossing does not appear to have any major alterations; however, the safety railings on both sides of the bridge appear to have been replaced within the last 5 years, and the ties, rails, and fasteners have also been replaced as part of routine maintenance. Since their original construction in 1888, the wood trestle bridges have had numerous in-kind replacements but retain their overall original design, materials, and workmanship. Other alterations include the addition of safety railings and signage (dates unknown).

5. *A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action.*

The Snohomish Segment was constructed circa 1888 as part of the SLS&E network's north division. By July 1889, Northern Pacific acquired a majority interest in SLS&E and began leasing the line (Armbruster 1999, 137). On May 1, 1892, SLS&E's operations were consolidated with Northern Pacific's (King County Parks 2015, 11). At that time, SLS&E's holdings spanned 227 miles of track (Robertson 1995, 266-267). On May 16, 1896, SLS&E entered foreclosure proceedings and the company's holdings were split between two companies. The newly formed Seattle & International Railway Company acquired the tracks in Western Washington and the Spokane & Seattle Railway received the Eastern Washington tracks (King County Parks 2015, 11). The Seattle & International Railway was backed by supporters of the Northern Pacific who sought to acquire SLS&E's holdings in western Washington. On April 1, 1901, the Seattle & International Railway became the Seattle division of the Northern Pacific (Armbruster 1999, 140). Within about 15 years of the acquisition and reorganization, Northern Pacific conducted improvements to the line in the project area, including the construction of two bridges in 1912.

Northern Pacific continued operating on the former SLS&E lines through the mid-twentieth century. Freight and passenger traffic began decreasing in the 1960s because of the developing interstate highway system. In 1970, Northern Pacific; Chicago, Burlington and Quincy; Great Northern; Spokane, Portland, and Seattle; and Pacific Coast railroads merged to form Burlington Northern Railroad. In 1996, Burlington Northern merged with the Atchison, Topeka, and Santa Fe Railway to become Burlington Northern Santa Fe (BNSF) (BNSF 2021, 4-5).

By the 1980's, BNSF's predecessors had abandoned trackage from the Skagit County border with Snohomish County south as far as the City of Snohomish at approximately MP 39. Snohomish County acquired that property post-abandonment and began developing it in 1989 as the "Centennial Trail," named in honor of Washington State's centennial that year (Snohomish County 2023).

In 2004, BNSF obtained abandonment authorization for an additional segment in the City of Snohomish from MP 39 south across the Snohomish River to MP 38.01. The railroad indicated in its filings that this segment had not been used for at least 2 years. After several extensions of

time, BNSF in July 2008 filed notice of consummation only for MP 38.25 to MP 39 and subsequently sold this portion to the City of Snohomish.

By 2003, the main purpose of (revenue source for) the line was to move certain fuselages from Boeing's Everett plant to its Renton plant for final assembly. Bridge reconfigurations rendered this use redundant, and BNSF indicated its intent to divest itself of roughly 42 miles of the line from the City of Snohomish south to Renton in east King and south Snohomish Counties, citing insufficient local traffic to justify continued operation and maintenance. BNSF asked local governments if there was interest in preserving the extensive facility for other transportation purposes. The Puget Sound Regional Council (PSRC) initially communicated regional interest in preserving the corridor to BNSF in July 2004, and instituted a study. In 2007, the PSRC issued the BNSF Corridor Preservation Study Final Report. In sum, the Final Report recommended public acquisition to preserve the line, with the portion south of the City of Woodinville being immediately railbanked under the federal railbanking statute for trail and transit purposes, while the portion of line north of Woodinville could continue in freight rail use so long as it was economically viable (Short 2007).

The Port of Seattle and King County ultimately entered into transactions for preservation of the rail corridor. The Port of Seattle and King County acquired BNSF's interests south of Woodinville and inclusive of the "Redmond Spur," subject to this Board's orders authorizing abandonment and railbanking. These rail lines are now being developed for trail and transit (light rail) uses by King County, local communities, and Sound Transit. The portion of line from MP 23.8 (Woodinville) north to MP 38.25 (City of Snohomish) is sometimes called the "freight segment." As to that segment, BNSF sold all of its interests to the Port of Seattle (including track and ties), but retained an exclusive freight easement. BNSF transferred its retained freight easement to GNP RLY, Ltd. (GNP). The Port of Seattle subsequently transferred its underlying interest in the King County portion of the freight segment to Woodinville, and its underlying interest in the Snohomish County portion of the segment to Snohomish County. Freight traffic on the freight segment gradually fell off to around 100 carloadings or less per year. During this interval, GNP was declared bankrupt, and its assets were taken over by Eastside Community Rail (ECR). However, ECR's STB license to acquire and operate the line was revoked ab initio by STB due to false and misleading representations as to ownership issues in the ECR's filings with STB. After an initial embargo due to bridge damage, the lessee of the line (Ballard Terminal Railroad Company [BTRC]) issued a final embargo, effective August 1, 2020, of the entire line due to "track conditions." Freight service never resumed. STB revoked BTRC's lease and operating exemption for the same reasons that ECR's license was revoked. GNP (under new ownership) again became the sole STB-licensed owner and operator for the line.

GNP subsequently sought a 2-year out-of-service exempt abandonment for the Woodinville portion of the freight segment in King County and consented to railbank that segment with Woodinville. Railbanking has now been consummated as to that segment.

GNP's only remaining rail line is the freight segment (former BNSF "retained exclusive freight rail easement") in Snohomish County (MP 38.25 to MP 26.38 at the King/Snohomish County line). The underlying deed from BNSF to the Port of Seattle that created the retained freight rail easement in Snohomish County contains a "covenant running with the land" providing that BNSF (or any successor) must consent to railbanking of the line in any applicable abandonment or adverse abandonment proceeding in the event of cessation of freight rail use of the line. Freight rail use ceased more than 3 years ago. Snohomish County as successor to the Port of Seattle has undertaken the filing of an adverse abandonment proceeding, and has committed to seeking railbanking. The County and GNP have entered into a settlement agreement in which GNP has committed to consent to railbanking, and the two parties have entered into a railbanking agreement, subject to authorization by STB in the proceeding for which this Historic Report has been prepared (AB 1331). The County believes this outcome is fully consistent with the recommendations of the PSRC Final Report and prior successful efforts to preserve the entire line for trail, transit, and other compatible purposes under the federal railbanking statute. Railbanking the Snohomish portion of the freight easement will also retain STB jurisdiction over the property so as to prevent any loss of such jurisdiction as to railbanked segments south of the King/Snohomish County line.

6. *A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic.*

The only document relating to the rail line and associated structures in the County's possession is the purchase agreement from the Port of Seattle (2016). Other available documentation includes a 2017 Historic Property Inventory Report (#708938) that recorded a segment of the BNSF Railway (formerly SLS&E) (Kramer 2017). The segment was evaluated as NRHP-eligible under Criterion A.

7. *An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities).*

AECOM recommends the Snohomish Segment as eligible for the NRHP under Criterion A in the areas of commerce, transportation, and community development. See the Historic Resource Inventory Report, Appendix D, for more details.

The Snohomish Segment traverses an area that contains cultural and archaeological resources of importance to several Indian tribes.

The County believes that the proposed action will not adversely affect any historic properties or tribal archaeological resources on the Snohomish Segment because no salvage of track materials or associated ground disturbance will occur as part of the action.

AECOM on behalf of Snohomish County reached out to the Washington State Historic Preservation Officer (SHPO) at the Washington DAHP and to the chairs and cultural resource directors of eight Indian Tribes with historic roots in the Snohomish/ south Snohomish County area. These letters describe the proposed project and request guidance in identifying any potential impacts to cultural or historic resources (Appendix B). As of the date of this Historic Report, no tribes have responded to our inquiry, apart from one email identifying a correct point of contact for the project.

On July 7, 2023, Maureen Elenga at DAHP responded by letter (Appendix C) that if the project is abandonment only, it will potentially be viewed as an adverse effect, as abandonment without a railbanking agreement or interpretive plan in place does not preserve the historic corridor. However, if the project is for railbanking, the abandonment will likely not be viewed as an adverse effect under the following circumstances:

- Preservation of the original corridor alignment.
- No removal or alteration of NRHP-eligible railroad bridges in the subject rail segment/APE.
- Development of an interpretive plan for the rail line following abandonment or railbanking.

As of the date of this Historic Report, the County has entered into a railbanking agreement. The County intends to preserve the original corridor alignment, and has no plans to undertake removal or alteration of any bridges. If the County decides to remove rail and ties or to deck the bridge for pedestrian/bicycle use, it would be in a separate action subject to DAHP review. The County intends to incorporate the future facility into the existing Centennial Trail (originally part of the same line that the property at issue in this proceeding is part of), which enters into the City of Snohomish from the north. The property at issue in this proceeding will extend the Centennial Trail to the Snohomish/King County line, where it is expected to intersect additional railbanked sections of the line. The County will develop an interpretive plan following railbanking. Therefore, all conditions specified in the DAHP letter for a finding of no adverse effect are fulfilled. Under STB rules (primarily CFR 1152.29) and procedures, railbanking may only happen after a line has been authorized for abandonment.

8. *A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.*

AECOM conducted a records search of DAHP's online Washington Information System for Architectural and Archaeological Records Data (WISAARD) on July 13 and July 17, 2023. The search was performed to determine if any prior cultural resources inventories were conducted and if any previously recorded archaeological sites, cemeteries, or traditional cultural properties have been documented in the project APE and within 0.5 mile of the APE.

AECOM did not discover any environmental conditions within the APE that might affect the recovery of archaeological material. No previous ground disturbance other than that undertaken for routine maintenance on the rail line was observed during survey.

The records search identified 17 prior cultural resources investigations (Table 1), 7 recorded sites (Table 2), and 2 cemeteries (Table 3) within 0.5 mile of the APE. No traditional cultural properties have been recorded within 0.5 mile of the APE.

The 17 previously conducted investigations included surveys or monitoring performed for housing and community development, highway and bridge infrastructure, and utilities. Of those, 8 resulted in a positive finding for archaeological resources. One prior cultural resource investigation (the Snohomish Riverfront Trail Project [Dugas 2001]) overlaps the APE; the rest are outside the APE but are within 0.5 mile of it.

Table 1. Previous Cultural Resource Investigations within 0.5 Mile of the Project APE

Title of Report	Author	Date	Finding	NADB No.
Cultural Resource Assessment for Snohomish Riverfront Trail Project	Dugas	2001	Negative	1343355
To Brad Nelson, City of Snohomish, Regarding Determination of the Existence of Human Remains, Old City Cemetery (Revised)	Sharp	1998a	Positive	1343360
To Brad Nelson, City of Snohomish, Regarding Determination of the Existence of Human Remains, Old City Cemetery	Sharp	1998b	Positive	1343361
Report of the Magnetometer Survey at the Site of the Snohomish Senior Center	Bell	1998	Positive	1343364

Title of Report	Author	Date	Finding	NADB No.
Letter to Brad Nelson, City of Snohomish, Regarding Determination of the Existence of Human Remains at the City of Snohomish Senior Center and proposed Youth Center Property: Magnetometer Survey and Testing	Sharp	1998c	Positive	1343366
Letter to Jodie Peotter Regarding Snohomish Firehouse #SNO-101B Section 106 Report	Pinyerd	2004	Negative	1343625
Cultural Resource Assessment for the Snohomish Senior Center at 506 Fourth Street, Snohomish	Gillis	2006	Negative	1348182
Cultural Resources Survey and Evaluation for the Snohomish Gas Main Pipeline Replacement Project	Kaehler	2007	Positive	1350133
Phase I Investigations for Decertification for the Old Snohomish Cemetery, Snohomish	Tallman	2006	Positive	1350381
Letter to Scott Van Aeist Regarding Archaeological Monitoring for the Pilchuk Veterinary Hospital Waterline Replacement Project	Tatum	2007	Negative	1350610
Cultural Resource Assessment of Intersection Improvements at 2 nd Street & Lincoln Avenue, Snohomish, Washington	Merrill	2011	Negative	1680561
Cultural Resources Survey: Proposed Telecommunications Tower Site; Site Name; SEA Bromart – New Build Snohomish	Baker	2015	Negative	1686797
Re: Pilchuck Center Archaeological Monitoring, City of Snohomish (Tax Parcel ID # 00475800100100)	Iversen	2010	Negative	1687024
Cultural Resources Assessment for the Pilchuck Park Access Road Relocation, Pilchuck River Bank Erosion 30% Design Project Phase I, City of Snohomish, Snohomish County, Washington	Kretzler	2022	Negative	1697233
WDFW City of Snohomish Access and Boat Ramp Project	Kelly	2015	Positive	1686987
Letter Report to Steve Shipe RE: Addendum to SR 9: SR 522 to 212 th Street Widening Project	McKenney	2004	Negative	1351993
Memo to Rob Whitlam and Mike Aubele RE: Archaeological Inventory for the Additional Equipment Staging Area of Potential Effect Located at 8323 Maltby Road	Gilpin	2012	Positive	1682121

There are no recorded archaeological sites in the APE and seven archaeological sites within 0.5 mile of the APE (Table 2). Two recorded cemeteries are outside the APE but within 0.5 mile of it. There are no additional archaeological sites, cemeteries, or traditional cultural properties listed in the King and Snohomish County registers that are in or within 0.5 mile of the APE.

Table 2. Recorded Archaeological Resources within 0.5 Mile of the Project APE

NRHP Register Status	Site Number	Site Name	Site Type	Description
Determined Not Eligible; Potentially Eligible	45-KI-536	Railway Grade of the Seattle, Lake Shore & Eastern Railroad	Historic	SLS&E historic railroad trestles and grade, railroad telephone poles, 1895-1970
Unevaluated	SN00112	N/A	Historic	Blackman Museum
Unevaluated	SN00113	N/A	Historic	Willis D. Tucker Home
Unevaluated	SN00330	N/A	Historic	3 rd Street site, historic objects
Potentially Eligible	SN00645	N/A	Historic	Historic industrial piers/pilings ca. pre-1940
Unevaluated	SN00021	N/A	Precontact	Heavily patinated basalt point
Potentially Eligible	SN00599	N/A	Historic Debris Scatter	Historic debris scatter ca. 1905-1960

Resource 45-KI-536 is the record containing sections of the subject property, the SLS&E Railroad, compiled under a single site number. The combined segments do not include any portions that overlap the APE; however, the record contains documentation for pilings associated with the railroad recorded as part of the Snohomish Riverfront Trail Project, Snohomish County, Washington Cultural Resource Assessment near the north end of the APE.

Five of the archaeological sites are historic, including two buildings, two historical debris scatters, and one set of historical industrial piers or pilings. Recorded as part of a Puget Sound Energy pipeline project in 2012, site SN00599 (a historical debris scatter) was observed approximately 20 centimeters below the surface during shovel probing activities. Located west of the APE, no collection occurred at the site, and the site was not evaluated for the NRHP, although it is listed as potentially eligible by DAHP under the Archy Detail Legacy project (Gilpin 2012).

Recorded as part of a Washington Department of Fish and Wildlife project in 2015, site SN00645 is a section of historic industrial pilings northeast of the APE along the Snohomish River. No collection occurred at the site and the site was not evaluated for the NRHP, although it is listed as potentially eligible by DAHP under the Archy Detail Legacy project (Kelly 2015).

The single precontact site, SN00021, was originally recorded as a “heavily patinated basalt point” in 1961 (L. E. E. 1961). An attempted relocation of the site occurred in 1991, with no evidence of the original site found. No collection occurred at the site, and the site was not evaluated for the NRHP, although it is listed as potentially eligible by DAHP under the Archy Detail Legacy project (Obermayr 1991).

Recorded during Phase I Investigations for its decertification in 2006, resource SN00050 is a pioneer-era cemetery, circa 1866-1923 (Table 3). At the time of recording, the cemetery was described as the Old Snohomish Cemetery at 171 Cypress Street, Snohomish, Washington. The cemetery likely contains precontact as well as historic burials, although 136 individuals were removed in 1947 to facilitate the construction of State Highway 15 through the cemetery. As a result of the study, the Snohomish Senior Center was relocated from the site of the old cemetery and the property vacated (Tallman 2006).

The record for Bear Creek Cemetery contains reference data only and does not appear to be part of a cultural resource investigation. The resource is a pioneer-era cemetery circa 1899-present that encompasses 1.36 acres in Maltby, Washington (Bear Creek Cemetery 2015).

Table 3. Recorded Cemetery Resources within 0.5 Mile of the Project APE

NRHP Register Status	Site Number	Site Name	Site Type	Description
Unevaluated/Not Listed	SN00050	Old Snohomish Cemetery	Historic/Contemporary	Pioneer Cemetery
Unevaluated/Not Listed	SN00498	Bear Creek Cemetery	Historic/Contemporary	Pioneer Cemetery

9. ***Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specific non railroad owned properties or groups of properties immediately adjacent to the railroad right-of-way: photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the location and type of the site (i.e. prehistoric or native American).***

The County does not foresee the likelihood that any additional information associated with the proposed line abandonment is necessary. However, if any additional information is requested, the County will provide it.

References

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LIST OF APPENDICES

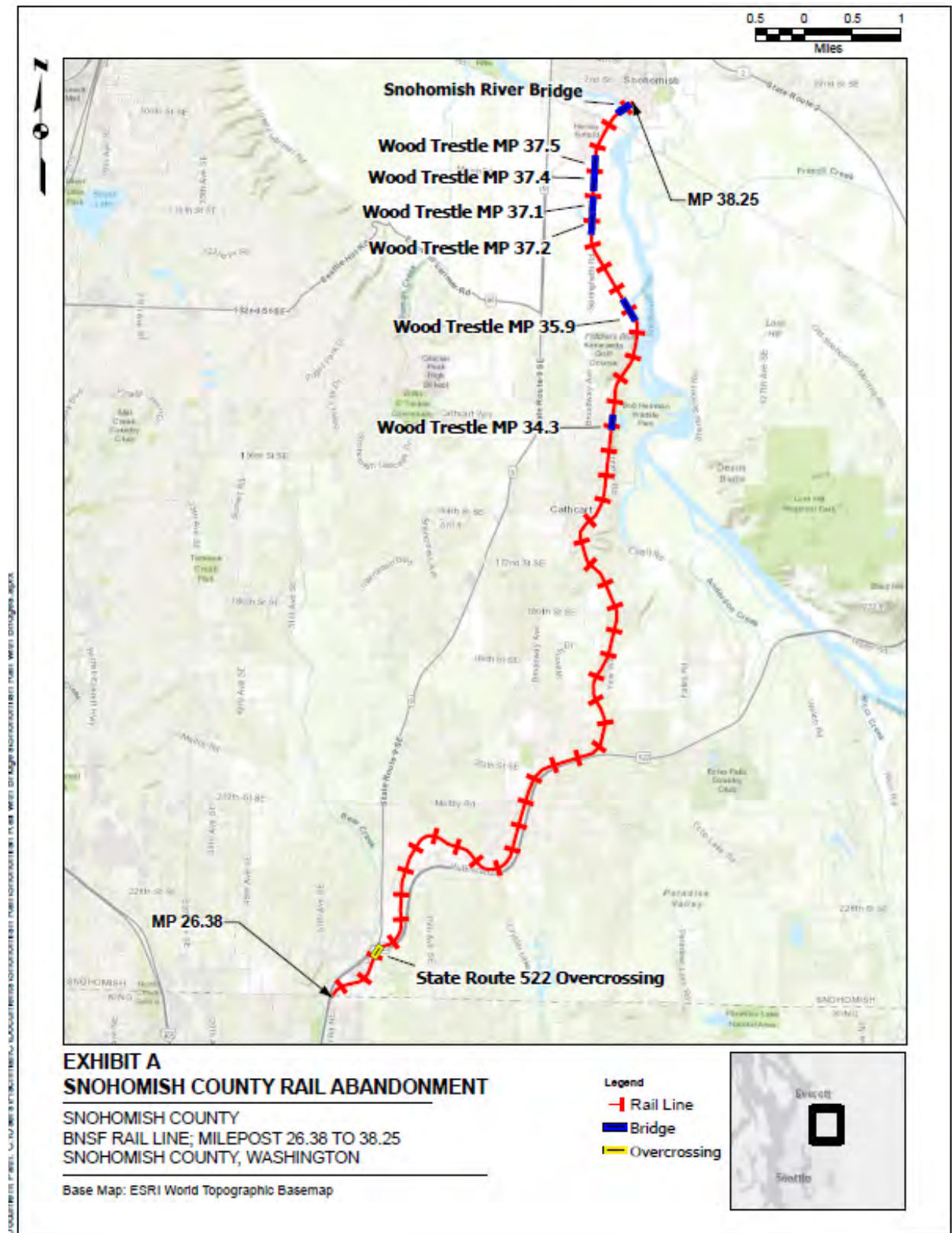
Appendix A – Project Area Map

Appendix B – Agency and Tribal Consultation Letters

Appendix C – Comments from Agencies and Tribes

Appendix D – Historic Resource Inventory Report

Appendix A – Project Area Map



Appendix B – Agency and Tribal Consultation Letters

Note: Each letter in this appendix was sent to the recipient with a map of the line as an enclosure, which has been included here only after the first letter to avoid repetition. Each letter received the same map as an enclosure.



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Kerri Woehler, Director
Washington Department of Transportation
Multimodal Planning Division
P.O. Box 47370
Olympia, WA 98504-7370

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Kerri Woehler:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

Rail use of the northernmost portion (i.e., roughly the intersection with the BNSF mainline south of Snohomish and MP 38.25) of the Snohomish Segment ceased over a decade ago, and use of the remainder of the line ceased in August, 2020. The segment is part of the larger Eastside Rail Corridor, which was purchased from BNSF Railway by the Port of Seattle in 2009, subject to a rail freight easement held by GNP on the Snohomish Segment. The County views the underlying deeds to provide for railbanking and trail use of the property pursuant to 16 United States Code 1247(d) in the event the Surface Transportation Board authorizes abandonment and the County requests railbanking as it so intends.

In advance of preparing an Environmental/Historic Report, the County is advising you of the proposed abandonment so that you may assist us in identifying any concerns your agency may have about potential environmental effects of the action. We appreciate your review and any

comments you may wish to offer. We request a written response as soon as possible, but no later than July 31, 2023, so that we may include it in the Environmental/Historic Report.

A copy of the Environmental/Historic Report will be forwarded to you at least 20 days before The County's application is filed at the Surface Transportation Board. If you have any questions about the proposal or this request, please contact me by email or phone. Thank you for your contribution.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Anderson".

Kim Anderson
Ecologist
Kimberly.anderson@aecom.com
206-724-6023

Cc: Sean Reay, Snohomish County
Charles Montange

Enclosure

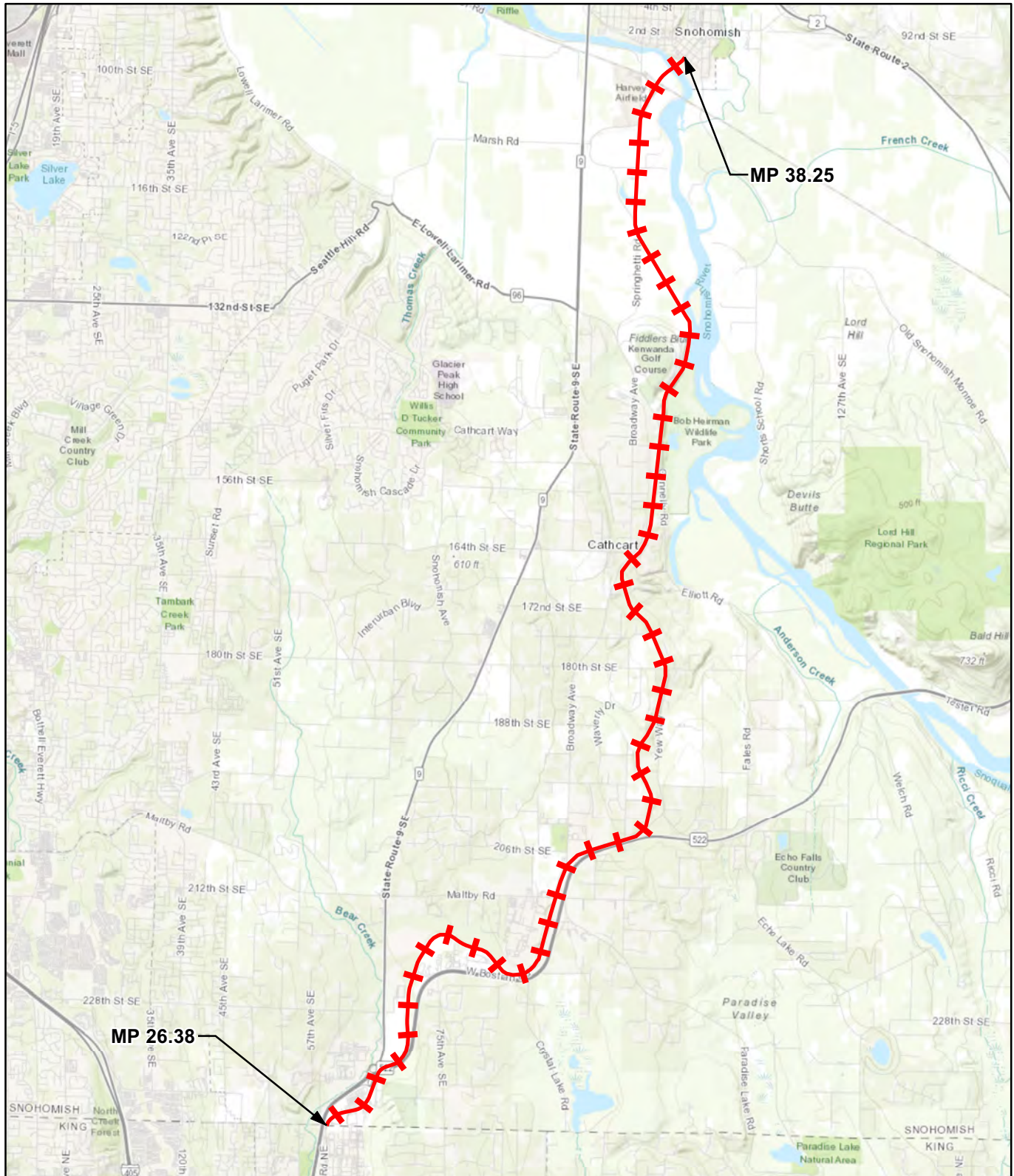
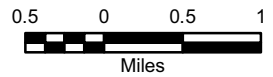


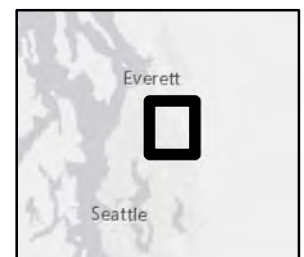
EXHIBIT A SNOHOMISH COUNTY RAIL ABANDONMENT

SNOHOMISH COUNTY
BNSF RAIL LINE; MILEPOST 26.38 TO 38.25
SNOHOMISH COUNTY, WASHINGTON

Base Map: ESRI World Topographic Basemap

Legend

+ Rail Line





AECOM
1111 Third Avenue
Suite 1600
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June 29, 2023

Mike McCrary, Director
Snohomish County Planning and Development Services
3000 Rockefeller Avenue
Everett, WA 98201

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Mike McCrary:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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Sincerely,

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Kim Anderson
Ecologist
Kimberly.anderson@aecom.com
206-724-6023

Cc: Sean Reay, Snohomish County
Charles Montange



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June 29, 2023

Brooke Eidem, Planning Director
City of Snohomish
Planning and Development Services Department
P.O. Box 1589
Snohomish, WA 98290

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Brooke Eidem:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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Kimberly.anderson@aecom.com
206-724-6023

Cc: Sean Reay, Snohomish County
Charles Montange



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Suite 1600
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June 29, 2023

Robert Grumbach
City of Woodinville
Development Services Department
17301 - 133rd Ave NE
Woodinville, WA 98072

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Robert Grumbach:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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Cc: Sean Reay, Snohomish County
Charles Montange



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June 29, 2023

Dave Somers
Snohomish County Executive
Chinook Office Building
3000 Rockefeller Avenue M/S 407
Everett, WA 98201

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Dave Somers:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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Kimberly.anderson@aecom.com
206-724-6023

Cc: Sean Reay, Snohomish County
Charles Montange



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Seattle, WA 98101
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June 29, 2023

Josh Brown
Executive Director
Puget Sound Regional Council
1011 Western Avenue, Suite 500
Seattle, WA 98104

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Josh Brown:

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206-724-6023

Cc: Sean Reay, Snohomish County
Charles Montange



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1111 Third Avenue
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Seattle, WA 98101
aecom.com

June 29, 2023

Communications and Outreach Branch
NOAA, N/NGS12
National Geodetic Survey, SSMC3 #8716
1315 East-West Highway
Silver Spring, MD 20910-3282

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

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Cc: Sean Reay, Snohomish County
Charles Montange



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Terry Cosby
USDA NRCS Office of the Chief
1400 Independence Ave., SW
Room 6149-S
Washington, DC 20250

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Terry Cosby:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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Charles Montange



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Lynn Khuat
Resource Conservationist
NRCS Renton Service Center
941 Powell Ave SW, Suite 102
Renton, WA 98057

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Lynn Khuat:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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comments you may wish to offer. We request a written response as soon as possible, but no later than July 31, 2023, so that we may include it in the Environmental/Historic Report.

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Sincerely,

A handwritten signature in black ink, appearing to read "Kim Anderson".

Kim Anderson
Ecologist
Kimberly.anderson@aecom.com
206-724-6023

Cc: Sean Reay, Snohomish County
Charles Montange



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1111 Third Avenue
Suite 1600
Seattle, WA 98101
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June 29, 2023

Loreé Randall
Federal Consistency Coordinator
Washington State Coastal Zone Management Program
PO Box 47600
Olympia, WA 98504

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Loreé Randall:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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Ecologist
Kimberly.anderson@aecom.com
206-724-6023

Cc: Sean Reay, Snohomish County
Charles Montange



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
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June 29, 2023

Kate Norman
U.S. Fish and Wildlife Service
Pacific Region 1
Assistant Regional Director of Ecological Services
911 NE 11th Avenue, 5th Floor
Portland, OR 97232-4181

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Kate Norman:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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Kim Anderson
Ecologist
Kimberly.anderson@aecom.com
206-724-6023

Cc: Sean Reay, Snohomish County
Charles Montange



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Jennifer Quan
Regional Administrator
NOAA Fisheries
West Coast Regional Office
1201 Northeast Lloyd
Portland, OR 97232

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Jennifer Quan:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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Sincerely,



Kim Anderson
Ecologist
Kimberly.anderson@aecom.com
206-724-6023

Cc: Sean Reay, Snohomish County
Charles Montange



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
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June 29, 2023

Miles Penk
Washington Department of Fish and Wildlife
North Puget Sound Regional Office
16018 Mill Creek Blvd.
Mill Creek, WA 98012-1541

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Miles Penk:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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Kim Anderson
Ecologist
Kimberly.anderson@aecom.com
206-724-6023

Cc: Sean Reay, Snohomish County
Charles Montange



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
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June 29, 2023

David Siegenthaler
Regional Program Manager, Federal Lands to Parks Program
National Park Service
909 First Avenue, 5th Floor
Seattle, WA 98104

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear David Siegenthaler:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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Kim Anderson
Ecologist
Kimberly.anderson@aecom.com
206-724-6023

Cc: Sean Reay, Snohomish County
Charles Montange



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Megan Duffy
Director
Washington Recreation and Conservation Office
P.O. Box 40917
Olympia, WA 98504-0917

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Megan Duffy:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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Kim Anderson
Ecologist
Kimberly.anderson@aecom.com
206-724-6023

Cc: Sean Reay, Snohomish County
Charles Montange



AECOM
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Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Meg Bommarito
Regional Planner
Washington Department of Ecology
Northwest Regional Office
P.O. Box 330316
Shoreline, WA 98133-9716

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Meg Bommarito:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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206-724-6023

Cc: Sean Reay, Snohomish County
Charles Montange



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1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Mae Ancheta
U.S. Army Corps of Engineers
Seattle District
P.O. Box 3755
Seattle, WA 98124-3755

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Mae Ancheta:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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Cc: Sean Reay, Snohomish County
Charles Montange



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Casey Sixkiller
Acting Administrator
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, WA 98101

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Casey Sixkiller:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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Kim Anderson
Ecologist
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206-724-6023

Cc: Sean Reay, Snohomish County
Charles Montange



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Allyson Brooks, Ph.D.
State Historic Preservation Officer
Washington Department of Archaeology & Historic Preservation
P.O. Box 48343
Olympia, WA 98504-8343

Via email: 106@dahp.wa.gov

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Dr. Brooks:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

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In advance of preparing an Environmental/Historic Report, the County is advising you of the proposed abandonment so that you may assist us in identifying any concerns your agency may have about potential effects of the action on historic resources. We appreciate your review and any comments you may wish to offer. We request a written response as soon as possible, but no later than July 31, 2023, so that we may include it in the Environmental/Historic Report.

A copy of the Environmental/Historic Report will be forwarded to you at least 20 days before The County's application is filed at the Surface Transportation Board. If you have any questions about the proposal or this request, please contact me by email or phone. Thank you for your contribution.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy Wood', with a stylized flourish at the end.

Tim Wood
Architectural Historian
timothy.wood@aecom.com
971-323-6357

Cc: Sean Reay, Snohomish County
Charles Montange

Enclosure



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Laura Murphy
Archaeologist
Muckleshoot Indian Tribe
39015 172nd Ave SE
Auburn, WA 98092

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Laura Murphy:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

Rail use of the northernmost portion (i.e., roughly the intersection with the BNSF mainline south of Snohomish and MP 38.25) of the Snohomish Segment ceased over a decade ago, and use of the remainder of the line ceased in August, 2020. The segment is part of the larger Eastside Rail Corridor, which was purchased from BNSF Railway by the Port of Seattle in 2009, subject to a rail freight easement held by GNP on the Snohomish Segment. The County views the underlying deeds to provide for railbanking and trail use of the property pursuant to 16 United States Code 1247(d) in the event the Surface Transportation Board authorizes abandonment and the County requests railbanking as it so intends. Although not part of the rail abandonment action, future development of a trail along the Snohomish Segment will likely include replacement of culverts, which will be addressed separately as a future project.

In advance of preparing an Environmental/Historic Report, the County is advising you of the proposed abandonment so that you may assist us in identifying any concerns your agency may have about potential impacts to cultural or natural resources. We appreciate your review and any comments you may wish to offer. We request a written response as soon as possible, but no later than July 31, 2023, so that we may include it in the Environmental/Historic Report. Snohomish County will continue to contact the Muckleshoot Tribe throughout the rail abandonment process and regarding future projects that will involve the Snohomish Segment. If you have any questions about the proposal or this request, or if you wish to consult directly with the County, please contact me by email or phone. Thank you for your contribution.

Sincerely,



Tim Wood

Architectural Historian

timothy.wood@aecom.com
971-323-6357

Cc: Sean Reay, Snohomish County
Charles Montange

Enclosure



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Steven Mullen Moses
Department of Archaeology and Historic Preservation Director
Snoqualmie Indian Tribe
P.O. Box 969
Snoqualmie, WA 98065

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Steven Mullen Moses:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

Rail use of the northernmost portion (i.e., roughly the intersection with the BNSF mainline south of Snohomish and MP 38.25) of the Snohomish Segment ceased over a decade ago, and use of the remainder of the line ceased in August, 2020. The segment is part of the larger Eastside Rail Corridor, which was purchased from BNSF Railway by the Port of Seattle in 2009, subject to a rail freight easement held by GNP on the Snohomish Segment. The County views the underlying deeds to provide for railbanking and trail use of the property pursuant to 16 United States Code 1247(d) in the event the Surface Transportation Board authorizes abandonment and the County requests railbanking as it so intends. Although not part of the rail abandonment action, future development of a trail along the Snohomish Segment will likely include replacement of culverts, which will be addressed separately as a future project.

In advance of preparing an Environmental/Historic Report, the County is advising you of the proposed abandonment so that you may assist us in identifying any concerns your agency may have about potential impacts to cultural or natural resources. We appreciate your review and any comments you may wish to offer. We request a written response as soon as possible, but no later than July 31, 2023, so that we may include it in the Environmental/Historic Report. Snohomish County will continue to contact the Snoqualmie Tribe throughout the rail abandonment process and regarding future projects that will involve the Snohomish Segment. If you have any questions about the proposal or this request, or if you wish to consult directly with the County, please contact me by email or phone. Thank you for your contribution.

Sincerely,



Tim Wood
Architectural Historian
timothy.wood@aecom.com
971-323-6357

Cc: Sean Reay, Snohomish County
Charles Montange

Enclosure



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Richard Young
Cultural Resource Manager
Tulalip Tribes
Hibulb Cultural Center & Natural History Preserve
6410 23rd Avenue NE
Tulalip, WA 98271

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Richard Young:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

Rail use of the northernmost portion (i.e., roughly the intersection with the BNSF mainline south of Snohomish and MP 38.25) of the Snohomish Segment ceased over a decade ago, and use of the remainder of the line ceased in August, 2020. The segment is part of the larger Eastside Rail Corridor, which was purchased from BNSF Railway by the Port of Seattle in 2009, subject to a rail freight easement held by GNP on the Snohomish Segment. The County views the underlying deeds to provide for railbanking and trail use of the property pursuant to 16 United States Code 1247(d) in the event the Surface Transportation Board authorizes abandonment and the County requests railbanking as it so intends. Although not part of the rail abandonment action, future

development of a trail along the Snohomish Segment will likely include replacement of culverts, which will be addressed separately as a future project.

In advance of preparing an Environmental/Historic Report, the County is advising you of the proposed abandonment so that you may assist us in identifying any concerns your agency may have about potential impacts to cultural or natural resources. We appreciate your review and any comments you may wish to offer. We request a written response as soon as possible, but no later than July 31, 2023, so that we may include it in the Environmental/Historic Report. Snohomish County will continue to contact the Tulalip Tribes throughout the rail abandonment process and regarding future projects that will involve the Snohomish Segment. If you have any questions about the proposal or this request, or if you wish to consult directly with the County, please contact me by email or phone. Thank you for your contribution.

Sincerely,



Tim Wood

Architectural Historian

timothy.wood@aecom.com
971-323-6357

Cc: Sean Reay, Snohomish County
Charles Montange

Enclosure



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Ryan Miller
Environmental Liaison
Tulalip Tribes
6406 Marine Dr.
Tulalip, WA 98721

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Ryan Miller:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

Rail use of the northernmost portion (i.e., roughly the intersection with the BNSF mainline south of Snohomish and MP 38.25) of the Snohomish Segment ceased over a decade ago, and use of the remainder of the line ceased in August, 2020. The segment is part of the larger Eastside Rail Corridor, which was purchased from BNSF Railway by the Port of Seattle in 2009, subject to a rail freight easement held by GNP on the Snohomish Segment. The County views the underlying deeds to provide for railbanking and trail use of the property pursuant to 16 United States Code 1247(d) in the event the Surface Transportation Board authorizes abandonment and the County requests railbanking as it so intends. Although not part of the rail abandonment action, future development of a trail along the Snohomish Segment will likely include replacement of culverts, which will be addressed separately as a future project.

In advance of preparing an Environmental/Historic Report, the County is advising you of the proposed abandonment so that you may assist us in identifying any concerns your agency may have about potential impacts to cultural or natural resources. We appreciate your review and any comments you may wish to offer. We request a written response as soon as possible, but no later than July 31, 2023, so that we may include it in the Environmental/Historic Report. Snohomish County will continue to contact the Tulalip Tribes throughout the rail abandonment process and regarding future projects that will involve the Snohomish Segment. If you have any questions about the proposal or this request, or if you wish to consult directly with the County, please contact me by email or phone. Thank you for your contribution.

Sincerely,



Tim Wood

Architectural Historian

timothy.wood@aecom.com
971-323-6357

Cc: Sean Reay, Snohomish County
Charles Montange

Enclosure



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Dennis Lewarch
Tribal Historic Preservation Officer
Suquamish Tribe
P.O. Box 498
Suquamish, WA 98392

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Dennis Lewarch:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

Rail use of the northernmost portion (i.e., roughly the intersection with the BNSF mainline south of Snohomish and MP 38.25) of the Snohomish Segment ceased over a decade ago, and use of the remainder of the line ceased in August, 2020. The segment is part of the larger Eastside Rail Corridor, which was purchased from BNSF Railway by the Port of Seattle in 2009, subject to a rail freight easement held by GNP on the Snohomish Segment. The County views the underlying deeds to provide for railbanking and trail use of the property pursuant to 16 United States Code 1247(d) in the event the Surface Transportation Board authorizes abandonment and the County requests railbanking as it so intends. Although not part of the rail abandonment action, future development of a trail along the Snohomish Segment will likely include replacement of culverts, which will be addressed separately as a future project.

In advance of preparing an Environmental/Historic Report, the County is advising you of the proposed abandonment so that you may assist us in identifying any concerns your agency may have about potential impacts to cultural or natural resources. We appreciate your review and any comments you may wish to offer. We request a written response as soon as possible, but no later than July 31, 2023, so that we may include it in the Environmental/Historic Report. Snohomish County will continue to contact the Suquamish Tribe throughout the rail abandonment process and regarding future projects that will involve the Snohomish Segment. If you have any questions about the proposal or this request, or if you wish to consult directly with the County, please contact me by email or phone. Thank you for your contribution.

Sincerely,



Tim Wood

Architectural Historian

timothy.wood@aecom.com

971-323-6357

Cc: Sean Reay, Snohomish County
Charles Montange

Enclosure



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Kerry Lyste
Tribal Historic Preservation Officer
Stillaguamish Tribe
P.O. Box 277
Arlington, WA 98223

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Kerry Lyste:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

Rail use of the northernmost portion (i.e., roughly the intersection with the BNSF mainline south of Snohomish and MP 38.25) of the Snohomish Segment ceased over a decade ago, and use of the remainder of the line ceased in August, 2020. The segment is part of the larger Eastside Rail Corridor, which was purchased from BNSF Railway by the Port of Seattle in 2009, subject to a rail freight easement held by GNP on the Snohomish Segment. The County views the underlying deeds to provide for railbanking and trail use of the property pursuant to 16 United States Code 1247(d) in the event the Surface Transportation Board authorizes abandonment and the County requests railbanking as it so intends. Although not part of the rail abandonment action, future development of a trail along the Snohomish Segment will likely include replacement of culverts, which will be addressed separately as a future project.

In advance of preparing an Environmental/Historic Report, the County is advising you of the proposed abandonment so that you may assist us in identifying any concerns your agency may have about potential impacts to cultural or natural resources. We appreciate your review and any comments you may wish to offer. We request a written response as soon as possible, but no later than July 31, 2023, so that we may include it in the Environmental/Historic Report. Snohomish County will continue to contact the Stillaguamish Tribe throughout the rail abandonment process and regarding future projects that will involve the Snohomish Segment. If you have any questions about the proposal or this request, or if you wish to consult directly with the County, please contact me by email or phone. Thank you for your contribution.

Sincerely,



Tim Wood

Architectural Historian

timothy.wood@aecom.com
971-323-6357

Cc: Sean Reay, Snohomish County
Charles Montange

Enclosure



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Rhonda Foster
Tribal Historic Preservation Officer
Squaxin Island Tribe
10 SE Squaxin Lane
Shelton, WA 98584

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Rhonda Foster:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

Rail use of the northernmost portion (i.e., roughly the intersection with the BNSF mainline south of Snohomish and MP 38.25) of the Snohomish Segment ceased over a decade ago, and use of the remainder of the line ceased in August, 2020. The segment is part of the larger Eastside Rail Corridor, which was purchased from BNSF Railway by the Port of Seattle in 2009, subject to a rail freight easement held by GNP on the Snohomish Segment. The County views the underlying deeds to provide for railbanking and trail use of the property pursuant to 16 United States Code 1247(d) in the event the Surface Transportation Board authorizes abandonment and the County requests railbanking as it so intends. Although not part of the rail abandonment action, future development of a trail along the Snohomish Segment will likely include replacement of culverts, which will be addressed separately as a future project.

In advance of preparing an Environmental/Historic Report, the County is advising you of the proposed abandonment so that you may assist us in identifying any concerns your agency may have about potential impacts to cultural or natural resources. We appreciate your review and any comments you may wish to offer. We request a written response as soon as possible, but no later than July 31, 2023, so that we may include it in the Environmental/Historic Report. Snohomish County will continue to contact the Squaxin Island Tribe throughout the rail abandonment process and regarding future projects that will involve the Snohomish Segment. If you have any questions about the proposal or this request, or if you wish to consult directly with the County, please contact me by email or phone. Thank you for your contribution.

Sincerely,



Tim Wood

Architectural Historian

timothy.wood@aecom.com
971-323-6357

Cc: Sean Reay, Snohomish County
Charles Montange

Enclosure



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
aecom.com

June 29, 2023

Kevin Joseph
Tribal Historic Preservation Officer
Sauk-Suiattle Tribe
5318 Chief Brown Lane
Darrington, WA 98241

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Kevin Joseph:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

Rail use of the northernmost portion (i.e., roughly the intersection with the BNSF mainline south of Snohomish and MP 38.25) of the Snohomish Segment ceased over a decade ago, and use of the remainder of the line ceased in August, 2020. The segment is part of the larger Eastside Rail Corridor, which was purchased from BNSF Railway by the Port of Seattle in 2009, subject to a rail freight easement held by GNP on the Snohomish Segment. The County views the underlying deeds to provide for railbanking and trail use of the property pursuant to 16 United States Code 1247(d) in the event the Surface Transportation Board authorizes abandonment and the County requests railbanking as it so intends. Although not part of the rail abandonment action, future development of a trail along the Snohomish Segment will likely include replacement of culverts, which will be addressed separately as a future project.

In advance of preparing an Environmental/Historic Report, the County is advising you of the proposed abandonment so that you may assist us in identifying any concerns your agency may have about potential impacts to cultural or natural resources. We appreciate your review and any comments you may wish to offer. We request a written response as soon as possible, but no later than July 31, 2023, so that we may include it in the Environmental/Historic Report. Snohomish County will continue to contact the Sauk-Suiattle Tribe throughout the rail abandonment process and regarding future projects that will involve the Snohomish Segment. If you have any questions about the proposal or this request, or if you wish to consult directly with the County, please contact me by email or phone. Thank you for your contribution.

Sincerely,



Tim Wood

Architectural Historian

timothy.wood@aecom.com
971-323-6357

Cc: Sean Reay, Snohomish County
Charles Montange

Enclosure



AECOM
1111 Third Avenue
Suite 1600
Seattle, WA 98101
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June 29, 2023

Josephine Jefferson
Tribal Historic Preservation Officer
Swinomish Indian Tribal Community
11367 Moorage Way
La Conner, WA 98257

Re: Surface Transportation Board Docket No. AB 1331—Snohomish County—Adverse
Abandonment GNP Rly. Inc., in Snohomish County, WA

Dear Josephine Jefferson:

AECOM sends this letter on behalf of Snohomish County (“the County”). The County intends to file a third-party, or “adverse,” application in the above-referenced docket for abandonment of approximately 11.9 miles of freight rail easement in Snohomish County, Washington (“the Snohomish Segment” or “line”). As shown in Exhibit A, the Snohomish Segment runs between Milepost 26.38 at the King-Snohomish County boundary line and Milepost 38.25 at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish. GNP owns a rail freight easement over the Snohomish Segment; the underlying property is owned by Snohomish County by reason of a deed from the Port of Seattle. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking. While future uses could require salvage of rails, ties, and other track materials, the County does not propose to conduct any salvage activities on the line as part of this action.

Rail use of the northernmost portion (i.e., roughly the intersection with the BNSF mainline south of Snohomish and MP 38.25) of the Snohomish Segment ceased over a decade ago, and use of the remainder of the line ceased in August, 2020. The segment is part of the larger Eastside Rail Corridor, which was purchased from BNSF Railway by the Port of Seattle in 2009, subject to a rail freight easement held by GNP on the Snohomish Segment. The County views the underlying deeds to provide for railbanking and trail use of the property pursuant to 16 United States Code 1247(d) in the event the Surface Transportation Board authorizes abandonment and the County requests railbanking as it so intends. Although not part of the rail abandonment action, future development of a trail along the Snohomish Segment will likely include replacement of culverts, which will be addressed separately as a future project.

In advance of preparing an Environmental/Historic Report, the County is advising you of the proposed abandonment so that you may assist us in identifying any concerns your agency may have about potential impacts to cultural or natural resources. We appreciate your review and any comments you may wish to offer. We request a written response as soon as possible, but no later than July 31, 2023, so that we may include it in the Environmental/Historic Report. Snohomish County will continue to contact the Swinomish Indian Tribal Community throughout the rail abandonment process and regarding future projects that will involve the Snohomish Segment. If you have any questions about the proposal or this request, or if you wish to consult directly with the County, please contact me by email or phone. Thank you for your contribution.

Sincerely,



Tim Wood

Architectural Historian

timothy.wood@aecom.com
971-323-6357

Cc: Sean Reay, Snohomish County
Charles Montange

Enclosure

Appendix C – Comments From Agencies and Tribes

From: [NOS NGS JIRA](#)
To: [Anderson, Kim](#)
Subject: [JIRA] (IMOV-14660) Letter for review and comment - rail adverse abandonment project in Snohomish County, WA
Date: Thursday, July 13, 2023 2:38:08 PM

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A comment is added on your issue:

Re: Letter for review and comment - rail adverse abandonment project in Snohomish County, WA

Good Afternoon Ms. Anderson,

Thank you for informing the National Geodetic Survey (NGS) of Snohomish County's decision to abandon approximately **11.9** miles of freight rail easement between **Milepost 26.38** at the King-Snohomish County boundary line and **Milepost 38.25** at approximately Commercial Street, somewhat north of the northern bank of the Snohomish River in the City of Snohomish, Snohomish County, Washington.

There could be geodetic survey marks located in the area described, and any marks still present could be disturbed by the abandonment. While it is illegal to disturb or destroy a mark, sometimes disturbing or destroying a mark is unavoidable. In such cases, the mark can often be preserved or reset with advanced planning. NGS provides the public with tools to search for and locate survey marks, see the NGS Data Explorer (<https://geodesy.noaa.gov/NGSDDataExplorer/>).

If a mark will be disturbed by the abandonment, Snohomish County should consult with NGS at least 90 days prior to beginning salvage activities that will disturb, or destroy any geodetic marks identified nearby.

Information is available online to help reset marks or report disturbed/destroyed marks:

<https://geodesy.noaa.gov/surveys/mark-recovery/index.shtml>

<<https://www.google.com/url?q=https://geodesy.noaa.gov/surveys/mark-recovery/index.shtml&sa=D&ust=1560385764139000&usg=AFQjCNGDkoXCHtBcDJBsXm2KQLkhwYDxQ>>.

This notice is also being shared with Dan Determan (Dan.Determan@noaa.gov, 206-526-6874 (office), 202-306-6716 (cell)) the Regional Geodetic Advisor, so he may work with any interested local agencies or stakeholders.

If you have additional questions, email NGS.Infocenter@noaa.gov.

Sincerely,

Deborah M. Brooks
Communications Specialist
deborah.brooks@noaa.gov
301-832-1063

More information on preserving marks, mark resets, and destroyed marks.

Preserving Marks

Significant resources were invested to create an extensive geodetic network across the United States by establishing precise coordinates at physical survey marks. Disturbing or destroying these marks reduces geodetic control available to local surveyors, so please make every effort to preserve this valuable network.

Mark Resets

If a mark is about to be destroyed (e.g., due to planned construction), it may be possible to reset the mark and retain the geodetic control. Review the Bench Mark Reset Procedures

(
https://geodesy.noaa.gov/PUBS_LIB/Benchmark_4_1_2011.pdf) or contact your closest geodetic advisor
(<https://geodesy.noaa.gov/ADVISORS/index.shtml>).

Please do not attempt to reset a mark that has been separated from the base. Any remnants of destroyed marks must be properly discarded and not reused in any manner, as this is a violation of Federal law.

Destroyed Marks

If it is determined that a mark has been destroyed, please provide enough photo evidence to show how this determination was made. To submit this information to NGS, follow the instructions regarding “destroyed marks” on the Mark Recovery Entry web page (
https://geodesy.noaa.gov/cgi-bin/recvy_entry_www.prl)

National Ocean Service (NOS) - National Geodetic Survey (NGS)

From: [NOS NGS JIRA](#)
To: [Anderson, Kim](#)
Subject: [JIRA] (IMOV-14660) Letter for review and comment - rail adverse abandonment project in Snohomish County, WA
Date: Friday, July 21, 2023 8:06:06 AM

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A comment is added on your issue:

Re: Letter for review and comment - rail adverse abandonment project in Snohomish County, WA

Good Morning Ms. Anderson,

NGS found no (0) geodetic markers along the track segment that would jeopardized by the proposed abandonment.

Thanks again for contacting NOAA's National Geodetic Survey.

Deborah Brooks,
Communications Specialist
NGS Infocenter
301-713-3242
ngs.infocenter@noaa.gov

National Ocean Service (NOS) - National Geodetic Survey (NGS)

From: [Duffy, Megan \(RCO\)](#)
To: [Anderson, Kim](#)
Cc: [Sean Reay](#); [C. Montange](#); [Robinson, Scott \(RCO\)](#)
Subject: RE: Letter for review and comment - rail adverse abandonment project in Snohomish County, WA
Date: Thursday, July 13, 2023 2:34:57 PM

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Ms. Anderson –

We have conducted a review of the relevant properties and have no comment to offer at this time.

Thank you.

Megan Duffy

From: Anderson, Kim <kimberly.anderson@aecom.com>
Sent: Thursday, June 29, 2023 3:50 PM
To: Duffy, Megan (RCO) <megan.duffy@rco.wa.gov>
Cc: Sean Reay <sean.reay@co.snohomish.wa.us>; C. Montange <c.montange@frontier.com>
Subject: Letter for review and comment - rail adverse abandonment project in Snohomish County, WA

External Email

Hi Megan,

Attached please find for your review and comment a letter regarding a proposed rail line abandonment project in Snohomish County, Washington. We are also sending a hard copy of the letter to your office mailing address.

Sincerely,

Kim Anderson PWS
Ecologist and Project Manager, Environmental Planning and Permitting
M +1 206-724-6023
kimberly.anderson@aecom.com

AECOM
1111 Third Avenue
Suite 1600
Seattle, WA, United States



Allyson Brooks Ph.D., Director
State Historic Preservation Officer

July 7, 2023

Tim Wood
AECOM
1111 Third Avenue, Suite 1600
Seattle, WA 98101

In future correspondence please refer to:
Project Tracking Code: 2023-07-04178
Property: Snohomish County Rail Abandonment
Re: Letter for review and comment - rail adverse abandonment project in Snohomish County, WA

Dear Tim Wood:

Thank you for informing DAHP of the proposed rail abandonment in Snohomish County and inviting comments in advance of consultation with DAHP. Initiation of consultation with DAHP begins with a letter addressed to the SHPO (sent electronically) describing the undertaking and proposing an Area of Potential Effects (APE) and survey methodology for identifying cultural resources and a request for concurrence from DAHP.

A cultural resources report prepared by an architectural historian meeting the Secretary of Interior Standards is vital to conducting a thorough review. Resources 50 years of age or older identified in the APE must be individually inventoried on Historic Property Inventory forms in DAHP's WISSARD database and appended to the cultural resources report. Once the report is submitted to DAHP, a letter requesting concurrence on its findings will inform us that the project is ready for review.

In addition to reviewing the report, DAHP will require detailed information about project activities and post-abandonment corridor use to assess the effects of the segment abandonment to historic resources.

If the project brought to DAHP for review is abandonment only, it will potentially be viewed as an adverse effect, as abandonment without a railbanking agreement or interpretive plan in place does not preserve the historic corridor; however, if the project brought to DAHP for review is abandonment for railbanking, the abandonment will likely not be viewed as an adverse effect under the following circumstances:

- Preservation of the original corridor alignment.
- No removal or alteration of NRHP-eligible railroad bridges in the subject rail segment/APE.
- Development of an interpretive plan for the rail line following abandonment or railbanking.

We appreciate the opportunity to comment on this project in advance of initiation of consultation with DAHP and look forward to reviewing the project for effects to historic resources. If you have any questions, feel free to contact me.

Sincerely,

Maureen Elenga, M.A.
Transportation Reviewer
(360) 972-4539
Maureen.Elenga@dahp.wa.gov



Appendix D – Historic Resource Inventory Report

Historic Resource Inventory of the Snohomish County Railroad
Abandonment Project, Snohomish County, Washington

Prepared for Snohomish County, Washington

August 18, 2023

Prepared By

AECOM

Historic Resource Inventory of the Eastside Rail Corridor Railroad Abandonment Project

Project:	Snohomish County Railroad Abandonment Project
Inventory Methods:	AECOM architectural historians performed the aboveground/built environment resources inventory July 11-12, 2023.
Location:	Township 27 North, Range 5 East, Sections 12, 24, 25, 26, 34, 35, Willamette Meridian Township 27 North, Range 6 East, Sections 6, 7, 18, 19, Willamette Meridian Township 28 North, Range 5 East, Sections 24, 25 Willamette Meridian Township 28 North, Range 6 East, Sections 18, 19, 30, 31 Willamette Meridian
USGS Quad:	Bothell, Maltby, and Snohomish
Cities:	Woodinville, Snohomish
County:	Snohomish
Area Surveyed:	11.9 miles along historic Seattle Lake Shore and Eastern Railway right-of-way in Snohomish County
Findings:	The Seattle Lake Shore and Eastern Railway segment between mileposts 26.38 and 38.25 is recommended as eligible for the National Register of Historic Places under Criterion A in the areas of Commerce, Transportation, and Community Development.
Preparers:	Autumn Buckridge, Caitlyn Fischman, Timothy Wood, M.S.
Organization:	AECOM

Introduction

AECOM completed a historic resources survey of the Seattle Lake Shore & Eastern (SLS&E) Railway between mileposts 26.38 and 38.25 (the Snohomish Segment) in Snohomish County, Washington. The segment includes the Snohomish River Railroad Bridge, six wood trestle bridges at mileposts 34.3, 35.9, 37.1, 37.2, 37.4, and 37.5, and the Washington State Route 522 rail overcrossing. Snohomish County (the County) intends to file a third-party, or “adverse,” application for abandonment of the segment. The County intends to use the Snohomish Segment for alternative public purposes, including interim trail use and railbanking following the proposed abandonment. Snohomish County anticipates developing a trail on the line, which will be part of both (1) the (currently) 30-mile long Centennial Trail and (2) “Eastrail,” a partially constructed 42-mile trail (with light rail components) project, currently under development. While future uses could require salvage of rails, ties, and other track materials, salvage activities are not proposed as part of this action. The Area of Potential Effects (APE) for the present project includes the historic SLS&E right-of-way between mileposts 26.38 and 38.25 in Snohomish County, Washington.

On July 11 and 12, 2023, AECOM Architectural Historians Caitlyn Fischman and Autumn Buckridge conducted a field survey of the project APE, including the Snohomish River Railroad Bridge, the six wood trestle bridges, and the State Route 522 rail overcrossing (Bridge Number 522/134). When observed, other features dating to the historical period were documented and photographed. On July 13, 2023, AECOM Architectural Historian Tim Wood conducted documentary research on the Washington State Department of Archaeology and Historic Preservation’s (DAHP) online Washington Information System for Architectural and Archaeological Records Data (WISAARD) to determine if the railroad, bridges, or any other historical built resources in the APE had been previously documented.

The adjacent SLS&E segment between mileposts 23.8 and 26.38, Renton and Woodinville, was evaluated in 2021 as eligible under National Register of Historic Places (NRHP) Criterion A at the local and state level as part of the larger SLS&E Company Railroad. This determination received concurrence from DAHP. A portion of the SLS&E segment between mileposts 26.38 and 38.25 was evaluated for the NRHP in 2017. The property was determined eligible under Criterion A.

The SLS&E Snohomish Segment between mileposts 26.38 and 38.25 is significant under NRHP Criterion A at the local and state level in the areas of Commerce, Transportation, and Community Development as part of the larger SLS&E Company Railroad. The following sections include a brief description of the SLS&E Snohomish Segment, historical context, and conclusions and recommendations. A map showing the segment and associated bridges and trestles and a Historic Property Inventory form for the SLS&E segment are also attached.

SLS&E Railway Snohomish Segment

The SLS&E Railway Snohomish Segment follows a roughly north-south alignment with termini at milepost 38.25 in Snohomish near the Snohomish River Bridge to the north and the King County-Snohomish County line at milepost 26.38 to the south. The segment consists of standard gauge rails and replacement pressure-treated wood and metal ties (Figure 1). The railroad track level varies in height along the segment. The northern portion of the segment goes through an agricultural area and is primarily at grade, with some sections elevated on structures. South of the agricultural area, the segment traverses undulating hills with cuts and fills as needed to meet the grade requirements. The segment features seven transfer tracks, six spurs, five historical model 112E standing railroad switches, and eight modern crossing arms

and lights. The railroad segment also crosses one steel truss bridge (circa 1912) (Figure 2), one concrete overcrossing (c. 1962) (Figure 3), six wood trestle bridges (circa 1888) (Table 1), and several streets and driveways to commercial, agricultural, residential, and industrial properties.



Figure 1: SLS&E Snohomish Segment south of milepost 34.3 showing typical standard-gauge rails with pressure-treated replacement wood ties and a typical whistle stop sign at right.

Table 1: Wood Trestle Bridges along the Snohomish Segment

Current Condition	Description	Location (milepost)	Length (feet)
	• Typical wood trestle construction • Pedestrian walkway along eastern side features metal safety railing and horizontal wood board planking • Single gauge railway with guard rail • Features milepost sign and no trespassing sign • Crosses agricultural area near 99th Ave. SE	37.5	365
	• Typical wood trestle construction • Pedestrian walkway along eastern side features metal safety railing and horizontal wood board planking • Single gauge railway with guard rail • Features milepost sign and no trespassing sign • Crosses agricultural area near 99th Ave. SE	37.4	400

Current Condition	Description	Location (milepost)	Length (feet)
	• Typical wood trestle construction • Safety railing and horizontal wood planking no longer extant, but wood beams extend off eastern side of bridge as remnants of former pedestrian walkway • Single gauge railway • Features milepost sign and no trespassing sign • Crosses Batt Slough	37.2	165
	• Typical wood trestle construction • No pedestrian walkway • Single gauge railway with guard rail • Features milepost sign and no trespassing sign • Crosses Batt Slough	37.1	645
	• Typical wood trestle construction • Safety railing and horizontal wood planking no longer extant, but wood beams extend off eastern side of bridge as remnants of former pedestrian walkway • Single gauge railway with guard rail • Features milepost sign • Crosses agricultural area between Springhetti Road to the west and Snohomish River to the east	35.9	1,000
	• Typical wood trestle construction • No pedestrian walkway • Single gauge railway • Features milepost sign and no trespassing sign • Crosses Connelly Road	34.3	60

Snohomish River Railroad Bridge

The Snohomish River Bridge in the City of Snohomish and Snohomish County, Washington is at milepost 38.0 of the Snohomish Segment. Access to the bridge was limited due to topography, safety concerns, and private property boundaries. Consultants inventoried this property from the nearest public access (the boat launch at Cady Park) approximately 260 feet northwest of the resource. Constructed circa 1912, the bridge is approximately 1,700 feet long, running northeast-southwest over the Snohomish River (Bridge Hunter 2023; Figure 2). The bridge has a 180-foot-long steel through truss central segment flanked by a 95-foot metal box girder segment to the south and a 200-foot metal deck truss segment to the north. Two open-pile wood trestle approach spans are on either side of the central bridge section. The wood trestles are composed of five vertical wood posts topped by a horizontal beam and reinforced with diagonal bracing on each side. The approach span on the south side is about 875 feet long, while the span on the north side extends to 1st Street and is approximately 535 feet long. The bridge is supported by four concrete piers. The southern concrete piers are rectangular, and the northernmost pier is octagonal. The octagonal pier bisects the deck truss segment and supports the bridge's original operator room. The bridge crosses over a section of Cady Park at the north end, and a segment of the Burlington Northern Santa Fe (BNSF) Railway at the south end. On each end of the bridge, the original wood abutment and wing walls are present, and are constructed with large wood vertical posts and horizontal wood planks to retain the soil.

Modifications to the bridge include replacement of the ties, rails, and fasteners as part of routine maintenance (dates unknown).



Figure 2: The Snohomish River Bridge, view facing south.

Washington State Route 522 Rail Overcrossing

The State Route 522 rail overcrossing (Bridge Number 522/134) was constructed in 1962, allowing passage of the former SLS&E line over the newly constructed state highway (Figure 3 and Figure 4) (WSDOT 2021). At approximately 295 feet long and 20 feet wide, the overcrossing is a metal box girder with a curved concrete deck and a concrete substructure with three evenly spaced rectangular plan concrete supports. Concrete abutments with wing walls support the overcrossing at each end. The overcrossing includes metal safety rails on each side with I-beam posts and metal tube rails. The segment features a single gauge railway with guard rails as it passes along the overcrossing. No major alterations are visible; however, the ties, rails, and fasteners have likely been replaced as part of routine maintenance, and the safety railings appear to have been replaced within the last 5 years.



Figure 3: The State Route 522 Rail Overcrossing, view facing northeast.



Figure 4: The State Route 522 Rail Overcrossing, view facing southwest from State Route 522 (Google Maps July 2023).

Historic Context

The following sections discuss the development of Snohomish County including the communities of Woodinville, the SLS&E Railroad, and historical resources identified in the APE.

Snohomish County

Established on January 14, 1861, Snohomish County is bordered by Skagit County to the north, King County to the south, and Chelan County to the east. The land comprising Snohomish County was previously part of Island County. Prior to the arrival of European explorers and migrants, the area was settled by the Snohomish people as well as other tribes including the Stillaguamish, Skykomish, Sauk-Suiattle, and Snoqualmie. Each tribe spoke Lushootseed, commonly in a northern dialect, and relied on plants and animals of the region for their livelihood. On January 22, 1855, Washington Territory Governor Isaac Stevens met with 81 tribal leaders to sign a treaty between the U.S. government and the region's Indigenous people. Representing the Snohomish, Snoqualmie, and Skykomish tribes, Snoqualmie Chief Patkanim agreed to trade their land for cash, hunting and fishing rights, and establishment of a reservation at Tulalip. Convenient water access and rich agricultural land attracted Euro-American migrants to Snohomish County beginning in the mid-nineteenth century. Like many areas of the Pacific Northwest, the arrival of the railroad in the late nineteenth century facilitated development of the county, including the timber and agricultural industries (Riddle 2006).

City of Snohomish

Originally settled by the Sdohobsh, a subdivision of the Snohomish, the area now known as the City of Snohomish is at the confluence of the Snohomish River and Pilchuck River. When Euro-Americans began migrating to the area, most Indigenous people had relocated to the Tulalip Reservation. Two of the earliest Euro-American migrants to the area were Heil Barnes and Edson Cady who intended to develop a community at the confluence of the Snohomish River and Pilchuck River. Cady filed a land claim and applied for a post office permit for "Cadyville." Barnes also filed a land claim on behalf of Emory C. Ferguson, who arrived in 1860 and established a mercantile. Cadyville became the county seat in July 1861 and was renamed Snohomish in 1871 (City of Snohomish n.d.). By the mid-nineteenth century, the community developed into the county's financial, cultural, and political center. By 1876, the community featured a school, library, science collection, newspaper, and an Athenaeum Society, a private members club for individuals with intellectual interests (Riddle 2006). The community initially was established to support the surrounding agricultural community and later developed into a logging town by the 1870s. By 1884, the population had reached 700, and the town featured a courthouse, six saloons, a school building, and a church. The Snohomish train station was completed a few years later in 1888. The SLS&E railroad arrived in 1889. When the city was incorporated in 1890, the population was 1,995 and quickly grew to 3,000 by 1895 (City of Snohomish n.d.). By 1910, the city featured a Carnegie Library, nine mills, and other plants; however, that year a large fire destroyed the largest mill as well as several other properties. After the fire, the local economy transitioned its focus to the rich agricultural land, which led to the development of a canning industry for the region's fruit products. The community continued to develop through the twentieth century with the establishment of the Bickford Ford car dealership in 1934 and the founding of the first historic district in Snohomish County in 1973 (RevisitWA.org n.d., City of Snohomish n.d.).

City of Woodinville

Before the arrival of Norwegian and Danish immigrants in the 1870s, the land now known as Woodinville was occupied by the Sammamish people, who developed a village of at least 100 people at the mouth of Bear Creek. The Sammamish grew root and bulb crops and conducted hunting and gathering practices along the Sammamish River. The first Euro-Americans to settle in this area were Susan and Ira Woodin who arrived in 1871. The couple were joined by Emmanuel Nelson and his daughter Mary in 1876. By the 1880s, Mary plotted many of Woodinville's lots and her husband Anders Hansen constructed houses for new settlers. Mary donated portions of her family's homestead for the development of railroads and a highway during the 1880s. Loggers and homesteads steadily moved into the Woodinville area during the late nineteenth and early twentieth century, facilitating its growth. The first church was constructed in 1880, followed by a one-room schoolhouse (1883) and a cemetery (1889). By 1909, Woodinville featured a two-room schoolhouse, two sawmills, two shingle mills, a brick and tile manufacturer, a school-desk factory, four hotels, a blacksmith, a stagecoach, multiple grocery stores, and a railway station. Although Woodinville began as a logging community, the clearing of timber led to the development of dairy and vegetable farms in the twentieth century. Woodinville began transitioning into a suburban community in the 1950s when Seattleites started purchasing property (Green 1999).

Seattle Lake Shore & Eastern

The SLS&E was incorporated on April 15, 1885, to establish a railway over Snoqualmie Pass between Seattle and Eastern Washington that could eventually be expanded throughout the region and to Canada (Armbruster 1999, 105). Judge Thomas Burke and aspirational entrepreneur Daniel Gilman galvanized Seattle businessmen and citizens to bring a railroad to Seattle with promises of eastern capital. The SLS&E board quickly raised sufficient funds to hire chief engineer Frederick H. Whitworth to conduct a preliminary survey of the railway, which began by January 28, 1887 (Armbruster 1999, 122; Robertson 1995, 266).

Burke and Gilman envisioned a railroad to connect the Seattle region with the natural resources east of Puget Sound. The area was rich in natural resources such as coal and gypsum near Squak Lake and coal, iron, and precious metals in Snoqualmie Pass. Timber and agricultural land were also plentiful on each side of the Cascade Range. Promoting the region's need to transport these resources and potential for lucrative economic opportunities, Gilman sought financial backing from Wall Street bankers and other investors in the east. Gilman's pitches to potential east coast investors eventually proved successful in 1886, allowing construction of the SLS&E to begin in 1887 (Armbruster 1999, 121-122).

The Puget Sound Construction Company was incorporated by the east coast investors to finance and build the railroad (Armbruster 1999, 124). Grading began on March 9, 1887, and the first rails were set on September 5, 1887 (Robertson 1995, 265). The initial 40 miles between Seattle and Snoqualmie Pass were to be constructed for \$200,000. Five- and 10-mile sections would be subcontracted out to local construction firms. By October, the railroad reached West Coast Junction (present day Woodinville). The initial train to travel the new line left Seattle for Squak on October 25, 1887.

To connect with Canadian Pacific Railway, a northern division of the SLS&E was planned. Beginning at West Coast Junction, the line would head northeast toward Snohomish and then eventually to the Canadian border via Sumas, Washington. The Seattle & West Coast Railway Co. initiated construction at present day Woodinville where the SLS&E met the Lake Shore Railroad (Armbruster 1999, 128). In June 1888, construction crews arrived in Snohomish to begin construction of the Snohomish River Railroad Bridge with the installation of bridge

footings in the Snohomish River. To avoid a legal injunction from a competing railroad, the Bellingham Bay Railway & Navigation Co., the bridge was reported to have been built expeditiously (Armbruster 1999, 131). The 1888 bridge was later replaced by Northern Pacific in 1912 with the extant through truss bridge. Research could not confirm why the 1888 bridge was replaced (Bridge Hunter 2023).

The 14.4-mile segment of the SLS&E between Woodinville and Snohomish was completed by July 1, 1888, when SLS&E began providing service for the 23-mile track between Snohomish and Seattle (Post Intelligencer 1888; King County Parks 2015, 7 and 9). At a cost of approximately \$14,425 per mile, 21 miles of track were completed between Woodinville and a point about 6 miles north of Snohomish by August 1888 (Armbruster 1999, 128-129). Charles Sheaf served as the chief engineer until early 1888 when he was replaced by Paul Mohr (Armbruster 1999, 129-130). By October 1888, passenger and freight trains were running to and from Snohomish, carrying coal, lumber, and merchandise (Armbruster 1999, 132).

The SLS&E's arrival in Woodinville and Snohomish contributed to the cities' growth and development, as the railroad provided more reliable means of transportation to Seattle's markets for the region's timber and agriculture businesses. The railroad also established a link to the coal mines in Issaquah. Development of the SLS&E coincided with the formation of several regional logging railroads, which created a greater network of railroad transportation (Taylor 2014). During the late nineteenth century, the SLS&E began solidifying itself as an important regional transportation network, linking major industries to Seattle, including Peter Kirk's steel mill on the east shore of Lake Washington (Armbruster 1999:130).

The SLS&E's development spurred the establishment of suburban townsites, logging camps, and shingle mills along its path, including Woodinville (Armbruster 1999, 124, 128, and 134). By 1890, the SLS&E extended north from Seattle, running along the northern portion of Lake Washington before turning east to Woodinville. From Woodinville the line split into two segments, one heading to the south and one to the north. The southern segment headed to Redmond and the eastern shore of Squak Lake (now Lake Sammamish) before turning east to Falls City and Sallal Prairie. The northern section passed through Snohomish on its way to Canada (Armbruster 1999, 117). On April 13, 1891, the SLS&E line reached the Canadian border via Sumas, Washington. The Canadian Pacific would reach Sumas within a month, establishing a long and productive international partnership (Armbruster 1999, 137).

Carrying freight and passengers, the SLS&E grew from 55 miles of track in July 1888 to 67 miles the following year and 156 miles the next year (Robertson 1995, 266-267). Despite its growth in the region, the SLS&E was evidently operating at a loss. As the SLS&E suffered financially, Northern Pacific sought to eliminate its competition by buying up SLS&E stock to gain greater control of its operations. As SLS&E's finances worsened, its shareholders began selling their holdings to the Northern Pacific. By July 1889, Northern Pacific acquired a majority interest in SLS&E and began leasing the line (Armbruster 1999, 135-138). On May 1, 1892, SLS&E's operations were consolidated with Northern Pacific's (King County Parks 2015, 11). At that time, SLS&E's holdings spanned 227 miles of track (Robertson 1995, 266-267).

The Great Panic of 1893 worsened the SLS&E's finances, and the company was placed in receivership (Armbruster 1999, 137-138). By June 1893, the company was bankrupt, and passenger and freight service drastically declined. On May 16, 1896, the SLS&E entered foreclosure processing and the company's holdings were split between two companies. The newly formed Seattle & International Railway Company acquired the tracks in western Washington, and the Spokane & Seattle Railway received the eastern Washington tracks (King County Parks 2015, 11). The Seattle & International Railway was backed by supporters of the Northern Pacific who sought to acquire the SLS&E's holdings in Western Washington. On April

1, 1901, the Seattle & International Railway became the Seattle division of the Northern Pacific (Armbruster 1999, 140). Within about 15 years of the acquisition and reorganization, Northern Pacific conducted improvements to the line in the project area, including construction of the extant Snohomish River Railroad Bridge. Base plates began to be replaced as early as the 1940s and continued to be replaced until as late as circa 1969.

Northern Pacific continued operating on the former SLS&E lines through the mid-twentieth century. Freight and passenger traffic began decreasing in the 1960s because of the developing interstate highway system (BNSF 2021, 4-5). In 1962, the State Route 522 rail overcrossing was constructed, allowing passage of the former SLS&E line over the newly constructed state highway (WSDOT 2021). In 1970, Northern Pacific; Chicago, Burlington, and Quincy; Great Northern; Spokane, Portland, and Seattle; and Pacific Coast railroads merged to form Burlington Northern Railroad. In 1995, Burlington Northern merged with the Atchison, Topeka, and Santa Fe Railway becoming BNSF (BNSF 2021, 4-5). By then, the SLR&E line north of Snohomish had been abandoned and acquired by Snohomish County all the way to the Skagit County border. This segment of the line is now known as the Centennial Trail.

In 2009, the Port of Seattle, in coordination with King County, purchased from BNSF the then-remaining 42 miles of line from City of Snohomish south to approximately Renton. The Port of Seattle sold the segment in King County to the City of Woodinville in 2015 and the segment in Snohomish County to Snohomish County in 2016. The line has not operated for rail purposes since at least August 1, 2020.

Conclusions and Recommendations

The SLS&E Snohomish Segment between mileposts 26.38 and 38.25 is eligible for NRHP under Criterion A for its significance at the local and state level in the areas of commerce, transportation, and community development as part of the larger SLS&E Company Railroad.

Although replacement of the rails, ties, and fasteners diminished the segment's integrity of materials, the use of in-kind materials retained the overall integrity of materials and workmanship. The line retains integrity of location, design, setting, materials, workmanship, feeling, and association; therefore, it conveys historic significance as a late nineteenth century railway and its relationship to the development of regional commerce. Snohomish County currently has no plan to remove track or ties.

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From: [NOS NGS JIRA](#)
To: [Anderson, Kim](#)
Subject: [JIRA] (IMOV-14785) CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331
Date: Friday, August 18, 2023 12:07:07 PM

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(IMOV-14785) CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331

Created: 18 Aug 2023 3:06 PM

== Created by JEMH via e-mail from:Anderson, Kim
<kimberly.anderson@aecom.com> ==

My apologies, but there was an error in my earlier email.

Regarding Surface Transportation Board Docket Number AB 1331—Snohomish County—Adverse Abandonment GNP Rly. Inc., in Snohomish County, WA. please see the attachment to this email for a corrected Environmental Report and Historic Report prepared on behalf of Snohomish County. Minor corrections were made to the cover letter and service list.

If you have questions on the attached materials, please contact me or Snohomish County's representative (cc'd on this email). Additional contact information can be found in the attachment.

Sincerely,

Kim Anderson PWS

Ecologist and Project Manager, Environmental Planning and Permitting

M +1 206-724-6023

kimberly.anderson@aecom.com

AECOM

1111 Third Avenue

Suite 1600

Seattle, WA, United States

From: [Beverly Pies - NOAA Federal](#)
To: [Anderson, Kim](#)
Subject: Re: FW: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331
Date: Friday, August 18, 2023 12:35:01 PM

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Thank you Kim!

Will make sure it is shared with the right people.

Hope you have a nice weekend,
Beverly

Beverly Pies

Admin Assistant to Jennifer Quan, Regional Administrator & Scott Rumsey, Ph.D., Deputy Regional Administrator
NOAA Fisheries | U.S. Department of Commerce
Mobile: 971-227-2156
<https://www.fisheries.noaa.gov/region/west-coast>
[Sign up for West Coast Region public notices & newsletters](#)



On Fri, Aug 18, 2023 at 11:30 AM Anderson, Kim <kimberly.anderson@aecom.com> wrote:

Hi Beverly,

I am sending you this email in Jennifer Quan's absence. Please see below.

Sincerely,

Kim Anderson PWS
Ecologist and Project Manager, Environmental Planning and Permitting
M +1 206-724-6023
kimberly.anderson@aecom.com

AECOM

1111 Third Avenue
Suite 1600
Seattle, WA, United States

From: Anderson, Kim
Sent: Friday, August 18, 2023 10:14 AM
To: jennifer.quan@noaa.gov
Cc: C. Montange <c.montange@frontier.com>
Subject: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331

Hi Jennifer,

Please see the attachment to this email for a transmittal of the Environmental Report and Historic report prepared on behalf of Snohomish County for Surface Transportation Board Docket Number AB 1331—Snohomish County—Adverse Abandonment GNP Rly. Inc., in Snohomish County, WA.

If you have questions on the attached materials, please contact me or Snohomish county's representative (cc'd on this email). Additional contact information can be found in the attachment.

Sincerely,

Kim Anderson PWS
Ecologist and Project Manager, Environmental Planning and Permitting
M +1 206-724-6023
kimberly.anderson@aecom.com

AECOM

1111 Third Avenue
Suite 1600
Seattle, WA, United States

From: [Josh Brown](#)
To: [Anderson, Kim](#)
Subject: RE: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331
Date: Friday, August 18, 2023 12:43:12 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

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Thanks Kim!



Josh Brown
Executive Director
Puget Sound Regional Council

Phone 206-464-7515
jbrown@psrc.org
www.psrc.org | 1011 Western Ave, Suite 500, Seattle, WA 98104



From: Anderson, Kim <kimberly.anderson@aecom.com>
Sent: Friday, August 18, 2023 10:02 AM
To: Josh Brown <JBrown@psrc.org>
Cc: C. Montange <c.montange@frontier.com>
Subject: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331

You don't often get email from kimberly.anderson@aecom.com. [Learn why this is important](#)

Hi Josh,

Please see the attachment to this email for a transmittal of the Environmental Report and Historic report prepared on behalf of Snohomish County for Surface Transportation Board Docket Number AB 1331—Snohomish County—Adverse Abandonment GNP Rly. Inc., in Snohomish County, WA.

If you have questions on the attached materials, please contact me or Snohomish county's representative (cc'd on this email). Additional contact information can be found in the attachment.

Sincerely,

Kim Anderson PWS
Ecologist and Project Manager, Environmental Planning and Permitting

From: [NOS NGS JIRA](#)
To: [Anderson, Kim](#)
Subject: [JIRA] (IMOV-14785) CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331
Date: Monday, August 21, 2023 4:00:07 PM

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A comment is added on your issue:

Re: CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331

Issue resolved. No further action required.

National Ocean Service (NOS) - National Geodetic Survey (NGS)

M +1 206-724-6023

kimberly.anderson@aecom.com

AECOM

1111 Third Avenue

Suite 1600

Seattle, WA, United States

NOTICE OF PUBLIC DISCLOSURE: This e-mail account is public domain. Any correspondence from or to this e-mail account may be a public record. Accordingly, this e-mail, in whole or in part, may be subject to disclosure pursuant to RCW 42.56, regardless of any claim of confidentiality or privilege asserted by an external party.

From: [Adam Osbekoff](#)
To: [Anderson, Kim](#)
Cc: [C. Montange](#)
Subject: RE: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331
Date: Friday, August 18, 2023 12:54:24 PM

This Message Is From an Untrusted Sender

You have not previously corresponded with this sender.

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Hello Kim

Thank you for the update, no further comments.

Adam

Adam Osbekoff
Cultural Resource Compliance Manager
adam@snoqualmietribe.us
C: 425.753.0388
9416 384th Ave SE
PO BOX 969
Snoqualmie Washington 98065

From: Anderson, Kim <kimberly.anderson@aecom.com>
Sent: Friday, August 18, 2023 11:12 AM
To: Adam Osbekoff <adam@snoqualmietribe.us>
Cc: C. Montange <c.montange@frontier.com>
Subject: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331

Hi Adam,

Please see the attachment to this email for a transmittal of the Environmental Report and Historic Report prepared on behalf of Snohomish County for Surface Transportation Board Docket Number AB 1331—Snohomish County—Adverse Abandonment GNP Rly. Inc., in Snohomish County, WA.

If you have questions on the attached materials, please contact me or Snohomish County's representative (cc'd on this email). Additional contact information can be found in the attachment.

Sincerely,

Kim Anderson PWS

Ecologist and Project Manager, Environmental Planning and Permitting

M +1 206-724-6023

kimberly.anderson@aecom.com

AECOM

1111 Third Avenue

Suite 1600

Seattle, WA, United States

From: [Brooke Eidem](#)
To: [Anderson, Kim](#)
Subject: RE: CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331
Date: Friday, August 18, 2023 1:27:36 PM
Attachments: [image001.png](#)

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Kim,

Thank you for the report. The City of Snohomish does not object to the freight rail easement abandonment and railbanking. Long-term land use plans for the City segment of the original BNSF right-of-way are for a public trail; it serves as the Centennial Trail through Snohomish City limits. Connectivity to the southern portion of the trail is ideal, and therefore the City is interested in supporting any project that would rehabilitate the existing Snohomish River Railroad bridge for pedestrian access.

Thank you,
Brooke



Brooke Eidem, AICP | Planning &
Development Services Director
City of Snohomish
(360) 282-3167 direct
(425) 328-6451 cell
www.snohomishwa.gov

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From: Anderson, Kim <kimberly.anderson@aecom.com>
Sent: Friday, August 18, 2023 12:02 PM
To: Kerri.Woehler@wsdot.wa.gov; m.mccrary@snoco.org; Brooke Eidem <Eidem@SnohomishWA.gov>; robertg@ci.woodinville.wa.us; Dave.somers@snoco.org; jbrown@psrc.org; NOS NGS JIRA <ngs.infocenter@noaa.gov>; terry.cosby@usda.gov; lynn.khuat@usda.gov; loree.randall@ecy.wa.gov; Fw1_AEAinbox@fws.gov; jennifer.quan@noaa.gov; Jesse.Dykstra@dfw.wa.gov; Kees, Ashley C (DFW) <Ashley.Kees@dfw.wa.gov>; David_Siegenthaler@nps.gov; Duffy, Megan (RCO) <megan.duffy@rco.wa.gov>; Meg.Bommarito@ecy.wa.gov; mae.p.ancheta@usace.army.mil
Cc: C. Montange <c.montange@frontier.com>
Subject: CORRECTION: Environmental and Historic Report for review - rail adverse abandonment

project in Snohomish County, WA - STB Docket No. AB 1331

CAUTION : This email originated from outside the City of Snohomish.

My apologies, but there was an error in my earlier email.

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If you have questions on the attached materials, please contact me or Snohomish County's representative (cc'd on this email). Additional contact information can be found in the attachment.

Sincerely,

Kim Anderson PWS

Ecologist and Project Manager, Environmental Planning and Permitting

M +1 206-724-6023

kimberly.anderson@aecom.com

AECOM

1111 Third Avenue

Suite 1600

Seattle, WA, United States

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From: [Elenga, Maureen \(DAHP\)](#)
To: [Anderson, Kim](#)
Cc: [DAHP 106 \(DAHP\)](#)
Subject: RE: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331; Historic Resource Inventory Report for Project: 2023-07-04178
Date: Wednesday, August 23, 2023 8:04:46 AM
Attachments: [image001.png](#)
[2023-07-04178_NoAdverseEffect.pdf](#)

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Hi Kim,

Please find the attached letter regarding the project referenced in the subject line. Feel free to reach out with any questions.

Best regards,
Maureen

Maureen Elenga, M.A. | *Architectural Historian – Transportation Project Reviewer*
(360) 972-4539
maureen.elenga@dahp.wa.gov

My work hours are 7:00am – 3:30pm, Mon-Fri

Dept. of Archaeology & Historic Preservation | www.dahp.wa.gov
1110 S. Capitol Way, Suite 30 | Olympia, WA 98501
PO Box 48343 | Olympia WA 98504-8343



From: Anderson, Kim <kimberly.anderson@aecom.com>
Sent: Friday, August 18, 2023 11:41 AM
To: Elenga, Maureen (DAHP) <Maureen.Elenga@dahp.wa.gov>
Cc: C. Montange <c.montange@frontier.com>; DAHP 106 (DAHP) <106@dahp.wa.gov>; Wood, Tim <Timothy.Wood@aecom.com>
Subject: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331; Historic Resource Inventory Report for Project: 2023-07-04178

External Email

Hi Maureen,

Please see the attachment to this email for a transmittal of the Environmental Report and Historic Report prepared on behalf of Snohomish County for Surface Transportation Board Docket Number AB 1331—Snohomish County—Adverse Abandonment GNP Rly. Inc., in Snohomish County, WA.

AECOM has submitted the Historic Resource Inventory of the Snohomish County Railroad Abandonment Project, Snohomish County, Washington in WISAARD for Project: 2023-07-04178 for your review. The Historic Resource Inventory is also included as Appendix D of the attachment to this email.

Accompanying the report in WISAARD is an inventory form for Property ID: 731251, Seattle Lake Shore and Eastern Railroad Segment.

Thank you for your review of this undertaking and please let me or Snohomish County's representative (cc'd on this email) know if you have any questions. Additional contact information can be found in the attachment.

Sincerely,

Kim Anderson PWS

Ecologist and Project Manager, Environmental Planning and Permitting

M +1 206-724-6023

kimberly.anderson@aecom.com

AECOM

1111 Third Avenue

Suite 1600

Seattle, WA, United States



Allyson Brooks Ph.D., Director
State Historic Preservation Officer

August 23, 2023

Timothy Wood
AECOM

In future correspondence please refer to:
Project Tracking Code: 2023-07-04178
Property: Snohomish County Rail Abandonment
Re: No Adverse Effect

Dear Timothy Wood:

Thank you for contacting the Washington State Department of Archaeology and Historic Preservation (DAHP) regarding the above referenced proposal. This action has been reviewed on behalf of the State Historic Preservation Officer (SHPO) under provisions of Section 106 of the National Historic Preservation Act of 1966 (as amended) and 36 CFR Part 800. Our review is based upon documentation contained in your communication.

First, we concur that Property ID: 731251 Seattle Lake Shore and Eastern Railroad Segment is eligible for listing in the National Register of Historic Places. We also concur that the project as proposed will have no adverse effect on resources listed in, or eligible for listing in, the National Register of Historic Places.

As a result of our concurrence, further contact with DAHP on this proposal is not necessary. However, if new information about affected resources becomes available and/or the project scope of work changes significantly, please resume consultation as our assessment may be revised. Also, if any archaeological resources are uncovered during construction, please halt work immediately in the area of discovery and contact the appropriate Native American Tribes and DAHP for further consultation.

Thank you for the opportunity to review and comment. If you have any questions, please feel free to contact me.

Sincerely,

Maureen Elenga, M.A.
Architectural Historian - Transportation Reviewer
(360) 972-4539
Maureen.Elenga@dahp.wa.gov



From: [Biggs, Jason R.](#)
To: [Anderson, Kim](#)
Cc: [Woehler, Kerri](#); [Beloso, Jason](#); [McIntyre, Megan \(Consultant\)](#); eidem@snohomishwa.gov
Subject: RE: CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331
Date: Monday, August 28, 2023 12:50:12 PM

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Kimberly,

WSDOT reviewed STB Docket Number AB 1331—Snohomish County—Adverse Abandonment GNP Rly. Inc., in Snohomish County, WA., and provides the following comments:

1. Railroad overcrossing over WSDOT's State Route (SR) 522: The right-of-way (ROW) in proximity to the rail crossing is developed with transportation infrastructure and the proposal does not include actions or activities that could potentially impact protected resources (stream/wetlands) that may be within WSDOT's ROW. WSDOT does not have any additional environmental concerns with the proposed rail line abandonment.
2. AECOM's historic resource inventory report is sufficient, as is the information provided in the Environmental Report in support of STB Docket No. AB 1331. WSDOT concurs that the SR 522 overcrossing (Bridge No. 522/134) is not eligible for listing in the National Register of Historic Places. No other comments on the remainder of the Project's Area of Potential Effects (APE), as that falls outside of WSDOT's purview.
3. Future use of the SR 522 bridge: Proper fencing and channelization should be included in the design to ensure there is no access for pedestrians to enter the SR 522 ROW. In addition, a throw-fence on the bridge section directly over any roadway traffic should be added to ensure no debris can fall onto the highway.

Thank you for the opportunity to review the report.

Regards,

Jason Biggs, PE

Acting Director

WSDOT Rail, Freight, and Ports Division

O: 360-705-6902

C: 503-862-7990

From: Woehler, Kerri <WoehleK@wsdot.wa.gov>
Sent: Friday, August 18, 2023 12:07 PM
To: Biggs, Jason R. <BiggsJR@wsdot.wa.gov>; Beloso, Jason <BelosoJ@wsdot.wa.gov>
Subject: FW: [EXTERNAL] CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331

Kerri Woehler (*she/her*)

Deputy Assistant Secretary, Multimodal Development and Delivery
Washington State Department of Transportation
360.480.1962

From: Anderson, Kim <kimberly.anderson@aecom.com>
Sent: Friday, August 18, 2023 12:02 PM
To: Woehler, Kerri <WoehleK@wsdot.wa.gov>; m.mccrary@snoco.org; eidem@snohomishwa.gov; robertg@ci.woodinville.wa.us; Dave.somers@snoco.org; Brown, Josh (PSRC) <jbrown@psrc.org>; NOS NGS JIRA <ngs.infocenter@noaa.gov>; terry.cosby@usda.gov; lynn.khuat@usda.gov; lore.randall@ecy.wa.gov; Fw1_AFAinbox@fws.gov; Quan, Jennifer <jennifer.quan@noaa.gov>; Dykstra, Jesse F (DFW) <Jesse.Dykstra@dfw.wa.gov>; Kees, Ashley C (DFW) <Ashley.Kees@dfw.wa.gov>; David_Siegenthaler@nps.gov; Duffy, Megan (RCO) <megan.duffy@rco.wa.gov>; Meg.Bommarito@ecy.wa.gov; mae.p.ancheta@usace.army.mil
Cc: C. Montange <c.montange@frontier.com>
Subject: [EXTERNAL] CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331

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My apologies, but there was an error in my earlier email.

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If you have questions on the attached materials, please contact me or Snohomish County's representative (cc'd on this email). Additional contact information can be found in the attachment.

Sincerely,

Kim Anderson PWS

Ecologist and Project Manager, Environmental Planning and Permitting
M +1 206-724-6023

kimberly.anderson@aecom.com

AECOM

1111 Third Avenue
Suite 1600
Seattle, WA, United States

From: [DFW R4Cplanning](#)
To: [Anderson, Kim](#)
Subject: RE: CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331
Date: Tuesday, September 19, 2023 5:31:54 PM
Attachments: [image001.png](#)

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Thanks Kim,

No further comment needed here.

All the best,



Morgan Krueger (she/her)
Land Use Environmental Planner, Habitat Division
Washington Dept. of Fish and Wildlife
Region 4
Morgan.Krueger@dfw.wa.gov
206-707-5434

From: Anderson, Kim <kimberly.anderson@aecom.com>
Sent: Tuesday, September 19, 2023 10:10 AM
To: DFW R4Cplanning <R4Cplanning@dfw.wa.gov>
Cc: C. Montange <c.montange@frontier.com>
Subject: RE: CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331

External Email

Hi Morgan,

There is no timeline at the moment. It is dependent on funding and other factors. This abandonment action is the first step of many.

Will WDFW be providing any further response to the Environmental Report I provided earlier? I know I

took a bit of time getting back to you that ate up most of the requested review/comment period so I want to accommodate. We also tend to not get many comments on these actions, so it would help me to know if we should expect one from your agency.

Thanks so much!

Kim Anderson PWS

Ecologist and Project Manager, Environmental Planning and Permitting

M +1 206-724-6023

kimberly.anderson@aecom.com

AECOM

1111 Third Avenue

Suite 1600

Seattle, WA, United States

From: DFW R4Cplanning <R4Cplanning@dfw.wa.gov>

Sent: Monday, September 18, 2023 5:26 PM

To: Anderson, Kim <kimberly.anderson@aecom.com>

Subject: RE: CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331

Hi Kim,

Thanks for the thoughtful response. I'm excited to see the utilization of this rail line for a trail in the future. The potential for recreation also goes hand-in-hand with wildlife use, as a trail system with vegetated pathways could serve as habitat corridors. I hope the County can utilize this opportunity to align their land use more closely with Comprehensive Plan policies and goals.

The only question I have is if the County has a timeline for the trail implementation?

Thanks in advance,



Morgan Krueger (she/her)

Land Use Environmental Planner, Habitat Division

Washington Dept. of Fish and Wildlife

Region 4

Morgan.Krueger@dfw.wa.gov

206-707-5434

From: Anderson, Kim <kimberly.anderson@aecom.com>

Sent: Monday, September 18, 2023 5:11 PM

To: DFW R4Cplanning <R4Cplanning@dfw.wa.gov>

Cc: c.montange@frontier.com

Subject: RE: CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331

External Email

Hi Morgan,

My apologies for the delay in responding to your questions while I obtained some additional information. Here are some answers to your questions (in blue):

- Does this abandonment relinquish duty to ensure the bridge across the Snohomish River does not fall apart and cause hazards in the river? What plan is in place to monitor structures associated with and adjacent to waterways for possibility of entering said waterways? I am assuming that the structures in the waterways are treated with creosote, which is hazardous if left to leach into the water.

Snohomish County expects to become responsible for maintaining the entire corridor, including the bridge and all improvements, at the conclusion of the abandonment and railbanking proceedings. The County intends to develop an interim trail on the premises (which would be a separate action) and will maintain the bridge and other structures for this purpose. Snohomish County will continue to monitor the condition of the bridge, similar to how they maintain other bridges and improvements.

- Similarly, is there an assessment in place for the culverts that currently run underneath this section of rail line? What assessments have been done to ensure these culverts will be monitored and continue to be functional where fish utilize them?

Snohomish County has been identifying and locating culverts along the rail line and is taking measures to clear vegetation, and will continue to do so as needed for water control purposes.

- I would imagine the rail bisects many wetlands as well. Is there any plan to reconnect these wetlands?

There is no plan to take out (salvage) any improvements at this time, including removing structures that might be in wetlands.

Please let me know if you have any further questions.

Best,

Kim Anderson PWS
Ecologist and Project Manager, Environmental Planning and Permitting
M +1 206-724-6023
kimberly.anderson@aecom.com

AECOM
1111 Third Avenue
Suite 1600
Seattle, WA, United States

From: DFW R4Cplanning <R4Cplanning@dfw.wa.gov>
Sent: Friday, September 1, 2023 4:07 PM
To: Anderson, Kim <kimberly.anderson@aecom.com>
Cc: c.montange@frontier.com
Subject: RE: CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331

Hi Kim,

Thank you for sending this document to WDFW for review. I have a few surface level questions that I would appreciate some clarification on:

- Does this abandonment relinquish duty to ensure the bridge across the Snohomish River does not fall apart and cause hazards in the river? What plan is in place to monitor structures associated with and adjacent to waterways for possibility of entering said waterways? I am assuming that the structures in the waterways are treated with creosote, which is hazardous if left to leach into the water.
- Similarly, is there an assessment in place for the culverts that currently run underneath this section of rail line? What assessments have been done to ensure these culverts will be monitored and continue to be functional where fish utilize them?
- I would imagine the rail bisects many wetlands as well. Is there any plan to reconnect these wetlands?

Feel free to reach out to me with any additional questions, comments, or concerns.

All the best,



Morgan Krueger (she/her)
Habitat Biologist, Habitat Division
Washington Dept. of Fish and Wildlife
Region 4, Central District

Morgan.Krueger@dfw.wa.gov
206-707-5434

From: Kees, Ashley C (DFW) <Ashley.Kees@dfw.wa.gov>
Sent: Friday, August 18, 2023 12:05 PM
To: DFW R4Cplanning <R4Cplanning@dfw.wa.gov>
Subject: FW: CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331

From: Anderson, Kim <kimberly.anderson@aecom.com>
Sent: Friday, August 18, 2023 12:02 PM
To: Kerri.Woehler@wsdot.wa.gov; m.mccrary@snoco.org; eidem@snohomishwa.gov; robertg@ci.woodinville.wa.us; Dave.somers@snoco.org; jbrown@psrc.org; NOS NGS JIRA <ngs.infocenter@noaa.gov>; terry.cosby@usda.gov; lynn.khuat@usda.gov; Randall, Loree' (ECY) <lora461@ECY.WA.GOV>; Fw1_AEAinbox@fws.gov; jennifer.quan@noaa.gov; Dykstra, Jesse F (DFW) <Jesse.Dykstra@dfw.wa.gov>; Kees, Ashley C (DFW) <Ashley.Kees@dfw.wa.gov>; David.Siegenthaler@nps.gov; Duffy, Megan (RCO) <megan.duffy@rco.wa.gov>; Bommarito, Meg (ECY) <mbom461@ECY.WA.GOV>; mae.p.ancheta@usace.army.mil
Cc: C. Montange <c.montange@frontier.com>
Subject: CORRECTION: Environmental and Historic Report for review - rail adverse abandonment project in Snohomish County, WA - STB Docket No. AB 1331

External Email

My apologies, but there was an error in my earlier email.

Regarding Surface Transportation Board Docket Number AB 1331—Snohomish County—Adverse Abandonment GNP Rly. Inc., in Snohomish County, WA. please see the attachment to this email for a corrected Environmental Report and Historic Report prepared on behalf of Snohomish County. Minor corrections were made to the cover letter and service list.

If you have questions on the attached materials, please contact me or Snohomish County's representative (cc'd on this email). Additional contact information can be found in the attachment.

Sincerely,

Kim Anderson PWS
Ecologist and Project Manager, Environmental Planning and Permitting
M +1 206-724-6023
kimberly.anderson@aecom.com

AECOM
1111 Third Avenue
Suite 1600
Seattle, WA, United States

Attachment 8

RLBA, Rail Line Viability Report (August 25, 2023)



RAIL LINE VIABILITY REPORT

Prepared for:
SNOHOMISH COUNTY

Prepared by:
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Introduction

R.L. Banks & Associates, Inc. (RLBA) was contracted by Snohomish County to determine Railroad Line Viability of the Snohomish County Railroad. The subject line consists of Snohomish County-owned right-of-way between Milepost 38.25 in Snohomish, WA and Milepost 26.38 at the Snohomish County/King County line, consisting of 11.88 miles of main track and 13.26 total miles of track (“subject rail line”). This effort determines the viability of the line as a freight rail operation as of July 18, 2023, a value characterized by RLBA as “Rail Line Viability.”

The Rail Line Viability opinion in this report is based on several factors, including:

1. A Cost to Cure infrastructure evaluation derived from analyses conducted as part of an on-site visit of the subject Line by Don Bagley, RLBA’s Senior Associate, Transportation Engineering conducted on June 7-9, 2023;
2. Historical railroad car count volumes provided by Snohomish County between the years of 2016 and 2019, after which freight rail operations ceased on the line and
3. RLBA’s analysis of potential customers where sidings and/or spur tracks are currently installed and attempts by RLBA staff to discuss potential interest in and volumes of rail operations with said potential customers.

Rail Line Viability

For the purposes of this report, RLBA defines Rail Line Viability as:

- An opinion of the projected free cash flows, as of a certain date, as regards the sustainability of a viable, on-going rail freight enterprise into the foreseeable future.

Uses of this Report

Per Snohomish County’s request, this report is solely intended to provide an estimate of the subject rail line Viability of the subject line as part of an adverse abandonment proceeding before the United States Surface Transportation Board.

Summary of Rail Line Viability in Various Scenarios

As explained in greater detail in the following sections, RLBA determined that the subject rail line would not be a viable operation on a free cash flow basis, losing anywhere between \$829,000 and \$1,148,000 in its first year of operations, depending on the assumptions one employs, and yielding no positive free cash flow in any of the out years (2026 – 2032). RLBA found that the most likely scenario would yield no freight traffic or storage revenue at all.

Listed below in Table 1 are the projected revenues of four scenarios in order of likelihood:



Scenario 1: No Freight or Storage Revenues – utilizing the results of interviews with potential customers and RLBA estimated expenses derived from Mr. Bagley (RLBA’s Railroad Engineering Expert) during his on-site inspection in June 2023;

Scenario 2: No Storage Revenue – utilizing the same expense assumptions as Scenario 1 but adds freight revenue drawn from Snohomish County Data freight volumes originated or terminated on the subject line between 2016 – 2019, the last time the subject line was operational;

Scenario 3: No Freight Revenue – utilizing the same expense assumptions as Scenario 1 but adds railcar storage revenue based on the use of 5,000 feet of track;

Scenario 4: Freight and Storage Revenue – utilizing estimated revenues from both Scenario 2 (freight revenue) and Scenario 3 (storage revenue) along with RLBA estimated expenses from Scenario 1.

Table 1
Summary of Projected Free Cash Flow in Year 1 (Thousands of Dollars)

Scenario	Year 1 (2025)
Scenario 1	\$ (1,148)
Scenario 2	\$ (1,086)
Scenario 3	\$ (890)
Scenario 4	\$ (829)

Methodology to Determine Rail Line Viability

To determine Rail Line Viability, RLBA staff performed the following tasks:

1. An on-site inspection of the property to assess the cost associated with upgrading the line to Federal Railroad Administration (“FRA”) Class 1 standards necessary to operate a railroad in a safe and economical manner. In addition, the on-site inspection provided information on which to base an estimate of the average annual routine and capital maintenance expenses required to be spent on the line to keep it in a steady state condition once it has been rehabilitated to the FRA Class 1 standard;
2. A review of applicable documentation pertaining to historical carload volumes (“traffic”) on the line between the years of 2016 – 2019, after which the rail line was not operated;
3. A review and use of RLBA’s Estimated Industry Average (REIA), a proprietary database of short-line railroad costs to estimate maintenance of equipment and general & administrative costs likely incurred were freight operations to resume on the subject line based on similar shortline operations in the United States;
4. A review of prior RLBA projects to determine an appropriate cost associated with labor, fuel and locomotive costs on a per-start basis and
5. A solicitation of former and potential rail customers to gauge interest in moving volumes via rail should the line be rehabilitated and operated in the future.



After the above tasks were completed, RLBA performed several, restated free cash flow analyses to provide a range of possible outcomes should freight operations resume on the subject line. The key components considered are summarized below:

- **Carloads** – These amounts were derived from the historical carloads volumes on the subject line between 2016 – 2019, the last time the line was operational;
- **Revenues** – These amounts were derived from rail car switching and rail car storage charges found in the REIA;
- **Expenses** – These amounts were associated with operations (operating expenses) and select expenditures (non-operating expenses) incurred to generate revenues. Expenses considered in this review were Transportation, Maintenance of Equipment, Maintenance of Way and Structures and General and Administrative;
- **Cash Flow from Operations** – These amounts were arrived at by adding Net Income to Depreciation and Amortization and
- **Free Cash Flow** – These amounts were arrived at by subtracting Capital Expenditures from Cash Flow from Operations.

Freight Railroad Industry Overview

Operating over 140,000 route miles, the U.S. freight rail network is widely considered to be the largest, safest and most cost-efficient freight transportation system in the World. Railroads play an integral role in the U.S. infrastructure landscape, as railroads are responsible for carrying over 40% of all intercity freight transportation tonnage across the U.S. Freight railroad transportation companies in the U.S. can be understood best by dividing them into the following two groups, categorized by revenues generated per year:

- **Class I Railroads** – Major carriers that provide high volume, long-haul service and serve many regions. The six U.S. Class I's dominate the rail industry in terms of revenue and carload volumes, totaling approximately 94% of all industry revenue generated and approximately 67% of freight rail miles owned in 2021 and
- **Class II & III Railroads** – Also referred to as “short lines,” these approximately 600 local carriers in the U.S. specialize in ‘first-mile, last-mile’ delivery of lower volume traffic. The Snohomish County Railroad falls into this category.

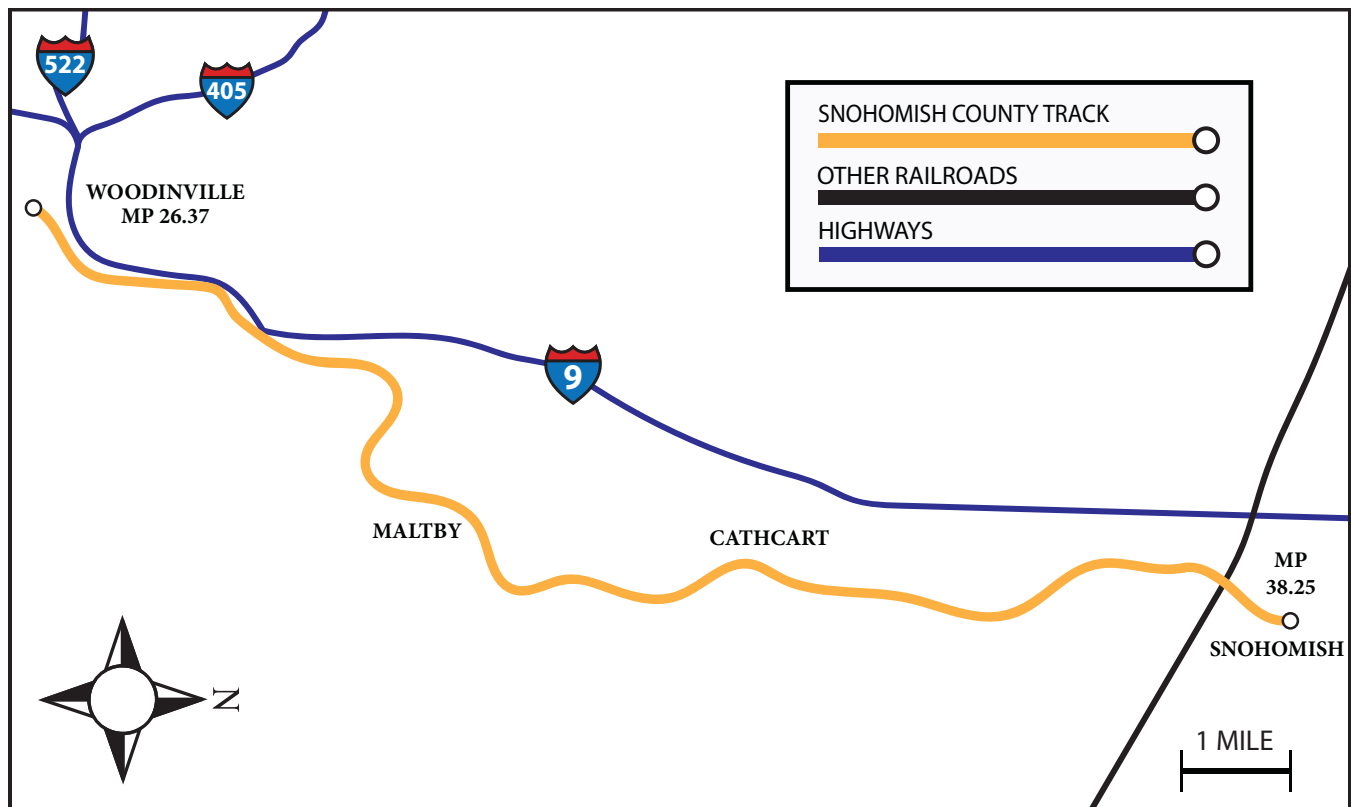
Together, these two, complimentary types of railroads are partners and enjoy a symbiotic relationship, providing door-to-door freight rail transportation options to shippers and receivers nationwide. Class I's take a leading role in a number of key areas, including providing the underlying infrastructure required to support long-haul shipments to be competitive via rail. At the same time, short lines focus on customer relationships, providing marketing, service and a more ‘hands on’ management approach to local shippers and receivers. Collectively, short line carload volumes approximate those experienced on individual Class I's, with short lines typically representing approximately 17% of all rail carloads generated annually.

Profile of the Subject Rail Line

The subject rail line consists of approximately twelve miles of Snohomish County-owned right-of-way between Milepost 38.25 in Snohomish, WA and Milepost 26.38 at the Snohomish County/King County line near Maltby, WA as illustrated below in Figure One. At the turn of this century, this was part of a longer rail branch line called the Woodinville Subdivision owned by BNSF Railway, a Class I Railroad that operates across most of the western half of the United States.

In 2009, the Woodinville Subdivision was purchased by the Port of Seattle and, over the coming years, portions of the Subdivision were sold to various government entities. One such entity was Snohomish County, who purchased the 12 miles referred to above in 2016. While the ownership of the track and underlying property are the property of Snohomish County, the freight rail operating rights were separately sold by BNSF to GNP Railway, which utilized Ballard Terminal Railroad to operate the freight rail rights until 2020, when rail service ceased.

Figure One
Map of Snohomish County Railroad



Carload Volumes on the Subject Rail Line

According to an interview with Snohomish County officials, several customers were served by GNP prior to final shutdown (embargo due to track conditions) in 2020, but the major user was believed to be in



Woodinville, WA, which is in King County on a segment of track subsequently authorized for abandonment and now railbanked and therefore not part of this report. Of the customers in Snohomish County prior to 2020, the largest by volume was believed to be Boise Cascade. County records are limited to total annual volumes between 2016 and 2019, do not distinguish between customers, include now-abandoned Woodinville volumes, and ranged from 65 to 106 cars.

An RLBA review of potential customers based on existing spur tracks and sidings yielded five potential customers:

1. **Boise Cascade** was contacted on June 14, 2023 and, in response to RLBA's prompting to provide the individual most knowledgeable about logistics at that location, Boise provided a phone number and email address of Jeremy Fischer. Mr. Fischer was contacted subsequently via both phone and email but no responses were provided via either channel. A follow up call to Mr. Fischer was executed on July 13, 2023, yielding no answer nor response;
2. **PSM Corp.** was contacted on June 13, 2023 and RLBA was referred to Melissa Birt. Ms. Birt was called and emailed on June 14 but no response was obtained. Ms. Birt was called again on July 13, yielding no response;
3. **DTG Recycle** was contacted on June 14, 2023 and declined to answer questions regarding potential use of rail transportation. In a follow up call held on July 13, 2023, DTG stated it was not interested in rail service;
4. **Puget Sound Truss** was contacted twice on June 14, 2023 but did not answer either time and the message left were not returned. A followed up call was made again on June 16, 2023 but again, the call was not answered. A follow up call on July 13 reached an employee who stated they would call back later that day but no response was received and
5. **Kent Gypsum** was contacted on August 7, 2023 and stated that the facility located on the subject line has been shut down.

In addition, satellite imagery was utilized to identify three potential transload customers that operated facilities near but not on the subject rail line itself were contacted. Two, United Recycling and Builder's Sand and Gravel stated that they were not interested in transload services while the third, WMM North Sound, did not respond to RLBA's inquiry in spite of repeated attempts.

Revenue Projections

Revenue Cars Handled – Given the lack of any substantive, positive response from the potential customers RLBA reached out to and the fact that historical volumes on this line barely reached over 100 carloads annually, RLBA utilized the highest volume from the historical carload data provided by the County as the volume GNP might experience in the first year of operation in the Scenarios 2 and 4. The highest volume on the portion of track in Snohomish County occurred in both 2016 and 2018 with 106 cars annually. RLBA utilized an annual growth rate of 1% - 2% annually, resulting in 122 carloads in 2032.



Table 2
Historical Annual Carloads on the Snohomish County Line

	2016	2017	2018	2019
Snohomish County Rail Line	106	65	106	89

Freight revenue per carload was estimated to be \$676 per car and enjoyed a variable escalation between 1% and 4%, depending on the year.

Table 3
Annual Carload Projections

	2025	2026	2027	2028	2029	2030	2031	2032
Scenario 1	-	-	-	-	-	-	-	-
Scenario 2	106	108	110	111	113	114	116	117
Scenario 3	-	-	-	-	-	-	-	-
Scenario 4	106	108	110	111	113	114	116	117

Average Cars Stored – A number of different and unrelated factors strongly influence the number of freight cars that can be stored on the GNP. The diversity of the factors make it more challenging to forecast car storage volumes than conventional carload traffic. The primary factors include, but are not limited to, the following:

- Economic cycle phase;
- Scrap value;
- General fluidity of the national and connecting railroad networks;
- Railroad industry strategy towards owning freight cars;
- Location;
- Identity of Class 1 connection(s);
- Number of Class 1 railroad connections;
- Nature of Class 1 route on which interchange location is located;
- Short line rate structure and
- Historical, short line service to car storage customer.

The BNSF Scenic Subdivision to which the GNP rail line connects on the north end is typically utilized by BNSF to move empty coal, grain and intermodal trains east to be reloaded although occasional, loaded intermodal trains operate westbound. Because these are all unit trains, railroads typically prefer to keep them intact when/if they need to be stored. The five thousand feet assumed to be utilized is not sufficiently long to hold an entire unit train. A short line railroad closer to origin and/or destination points with more than one connection to a Class I, or even more preferable, connections to more than one Class I likely would be more attractive to railcar owners as they're looking to move their cars out of storage as short a distance as possible before being reloaded so they can begin to generate revenue from their assets again. All of these variables would work against GNP in any future effort to attract railcar storage revenue. Due to the lack of information provided to accurately assess the potential railcar storage opportunities, RLBA was inclined to remove railcar storage revenue from its scenarios completely.



That said, rail car storage is a common revenue generator on shortline railroads across the country and there could be demand for the small amount of railcar storage on the subject line. To reflect both the lack of information/many variables going against it and the small volume and ubiquitous nature of railcar storage on shortlines, RLBA developed Scenarios 3 and 4 to include small amounts of rail storage while excluding storage completely from Scenarios 1 and 2.

With railcar storage volumes addressed, the following analysis focuses on railcar storage revenue. RLBA made the assumption that the average cars stored (91 in the first year) would be onsite 365 days per year, which results in 33,215 daily railcars stored per year. RLBA's confidential data from prior work with shortlines in the railcar storage business indicate a rate between \$4.50 and \$9, depending on the variables listed above. These figures are inclusive of a daily storage fee and a "switch fee" both when the car arrives and when it departs, which ranges between \$100 and \$250. RLBA used a fee of \$9 per car/day to calculate revenue in the Scenarios where car storage is present.

Table 4
Comparison of Revenues Across Various Scenarios (Thousands of Dollars)

	2025	2026	2027	2028	2029	2030	2031	2032
Scenario 1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Scenario 2	\$ 72	\$ 75	\$ 78	\$ 80	\$ 81	\$ 82	\$ 83	\$ 84
Scenario 3	\$ 299	\$ 314	\$ 304	\$ 323	\$ 316	\$ 316	\$ 332	\$ 332
Scenario 4	\$ 371	\$ 388	\$ 382	\$ 402	\$ 398	\$ 398	\$ 415	\$ 416

Cost Projections

Operating Cost – RLBA typically sees the following costs captured in Railroad Expense: Operating, Maintenance of Way, Maintenance of Equipment and General & Administrative costs when reviewing or developing a pro forma financial statement. RLBA utilized its REIA of financial figures to estimate the likely cost of operating the GNP Railway as follows.

Operating Expense includes crew costs to operate the trains as well as locomotive lease/ownership costs and fuel costs to operate the locomotive. RLBA assumed a 2-person crew operating 3 days per week with a per-crew cost, which includes labor, fuel and locomotive expense of \$1,828. RLBA could have used 5 day/week service but that would have made the financial performance worse. While not included in any of RLBA's Scenarios, if RLBA's forecast included 5 day/week service, the 2025 cost would have increased to \$826,000.

Maintenance of Way Expense includes the costs of maintaining the rail infrastructure on an annual basis, details of these costs can be found in the Cost to Cure Report and are based on RLBA's Railroad Engineer's on-site inspection of the track in June 2023. The annual cost of Routine Maintenance in 2025 was estimated to be \$248,000 and escalated 2% annually. This 2% increase is less than GNP's escalation of at least 2.1% in its escalation of Operating Costs (that presumably included Maintenance of Way Expenses). In addition, the need to replace rail and bridge infrastructure at the end of their useful life was estimated as a Capital Cost, which was then annualized at a rate of \$523,000.



Maintenance of Equipment – RLBAs Shortline Database of Maintenance of Equipment (“MOE”) costs associated with the repair of railcars and locomotives while on the rail line has averaged 5% of Total Revenue. This percentage was used to arrive at an estimated MOE annual cost.

General & Administrative – RLBAs database of G&A costs associated with back-office work, sales and marketing, etc. are typically about 20% of Total Revenue which is estimated to be \$122,000 in 2025.

The above categories result in a sum between \$533,000 and \$626,000 in 2025 and varied, based on revenue projections in the various scenarios. A comparison of the Operating Costs in each Scenario is displayed below in Table 5.

Table 5
Comparison of Operating Costs Across Various Scenarios (Thousands of Dollars)

	2025	2026	2027	2028	2029	2030	2031	2032
Scenario 1	\$ 533	\$ 545	\$ 557	\$ 569	\$ 582	\$ 595	\$ 608	\$ 622
Scenario 2	\$ 551	\$ 564	\$ 576	\$ 589	\$ 602	\$ 615	\$ 629	\$ 643
Scenario 3	\$ 608	\$ 624	\$ 633	\$ 650	\$ 661	\$ 674	\$ 691	\$ 705
Scenario 4	\$ 626	\$ 642	\$ 652	\$ 669	\$ 682	\$ 695	\$ 712	\$ 726

In addition to the Operating Cost line, two other rows drive the change in Free Cash Flow. One such category is Depreciation and Amortization.

The second line captures Capital Expense (“CapEx”). There are two types of infrastructure maintenance expenditures: 1) Routine and 2) Capitalized or Program Expenditures (CapEx). Routine maintenance is the repair of items that occurs on a day-to-day basis while Capital Maintenance Expenditures capture the replacement of components in a programmatic way, typically at the end of their useful life. As an example, if your motor vehicle has a flat tire and you repair it on the side of the road, it would be synonymous with Routine maintenance. When your tire reaches the end of its useful life and you take your motor vehicle in to replace the tire, it would be synonymous with a Capital maintenance expenditure. While Routine Maintenance of Way expense was addressed on the previous page and reflected in Table 5, also above, the calculation of infrastructure CapEx was addressed above and so is addressed in the following paragraph.

RLBA’s Railroad Engineering Expert found on his inspection trip where he found about of \$32.3 Million needed in Capital Expenditures, annualized to an average rate of \$523,000.

In theory, grants could be used to rehabilitate the subject rail line to FRA Class 1 standards and could potentially include some of the CapEx costs encompassed in Mr. Bagley’s review and cost estimates on items such as bridge replacement to lessen the burden on GNP’s costs. However, RLBA finds this assumption to be highly unrealistic as grant programs at both the State and Federal level are highly competitive and do not typically provide grants at the levels that GNP would need to seek to lessen its annual CapEx, particularly for railroads with no or poor past performance. For instance, Washington State’s Freight Rail Assistance Program for 2021 – 2023 allocated a total of \$7.04 million to grant projects to different rail-

road applicants.

Federal Grant programs like the Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program are also in high demand and provide far less money per award than what GNP is seeking. In 2021, 122 applicants applied for funding and only 24 received grants. While two grants were for over \$15 million, most were in the \$1 - \$5 million range and all were for existing operations with a history of strong performance. Recent awards in the State of Washington include \$3.7 million to the Washington Department of Transportation and \$1.4 million to the Puget Sound and Pacific Railroad, far less than what GNP assumed would fall into its lap. As such, RLBA finds it unlikely that GNP will be successful in finding grant funding at a level that would reduce the CapEx spend enough to make the line viable.

Conclusions

With the addition of CapEx as well as the estimated costs described in the previous section, RLBA believes that GNP would experience negative free cash flow on an annual basis, rendering the operation non-viable.

Because of the lack of information provided, RLBA produced four alternative Pro Forma Financial Statements to ensure a comprehensive and balanced look at GNP's operations.

1. Scenario 1 – This scenario assumed no freight or storage volume and RLBA estimated Operating Expense and CapEx necessary to keep the railroad operational based on an on-site inspection of the track in June 2023. This resulted in a projected Free Cash Flow of (\$1,097,000) in 2025 with no annual positive cash flow in any year between 2025 and 2032.
2. Scenario 2 – This scenario incorporated RLBA's estimate of Revenue Cars Handled from prior freight rail operations on the subject line. Average Cars Stored were zeroed out due to the subject rail line's lack of congruence with the factors that drive positive car storage growth (described in detail in the Average Cars Stored Section above) and RLBA Operating Cost and CapEx estimates were incorporated, yielding a Free Cash Flow of (\$1,036,000) in 2025 with no annual positive cash flow in any year between 2025 and 2032.
3. Scenario 3 – This scenario reflected an assumption of no Revenue Cars Handled as RLBA's inquiries to former and potential rail customers yielded no positive confirmations and a distinct lack of interest in shipping or receiving freight via the Snohomish County Railroad. Average Cars Stored were based on the use of 5,000 feet of track and RLBA Operating Cost and CapEx estimates were incorporated, yielding a Free Cash Flow of (\$840,000) in 2025 with no annual positive cash flow in any year between 2025 and 2032.
4. Scenario 4 – This scenario used RLBA estimated Revenue Cars Handled, derived from the prior freight rail operations on the subject line. Average Cars Stored based on the use of 5,000 feet of track and RLBA Operating Cost and CapEx estimates were incorporated, yielding a Free Cash Flow of (\$778,000) in 2025 with no annual positive cash flow in any year between 2025 and 2032.

Detailed tables that display each of the Scenario amounts can be found in the appendix following the conclusion of this report. These tables provide further support of the findings in this report that indicate



the subject rail line is not viable on a Free Cash Flow basis. Adequate expense to operate the railroad would result in negative cash flows even with elevated projected carload and storage volumes that are not based on past performance or commitments from potential customers.

It should be noted that the analysis in this report did not take into account the opportunity cost of GNP's use of track and the material assets that are owned by Snohomish County. A Class I railroad's opportunity cost is typically derived from the STB's Weighted Average Cost of Capital (WACC) on the assets being used. The most recent WACC available at the time of this report was 2022's WACC of 10.58%.

As part of its assignment from the County, RLBA performed a Net Liquidated Valuation of Snohomish County's track assets (excluding real estate) and estimated the value to be \$1,747,000. Applying the WACC to this value yields \$184,833 and represents an appropriate fee to charge GNP on an annual basis to compensate the County for the use of its assets. That said, as mentioned above, the STB's WACC is based on data furnished by Class I carriers. RLBA has found shortline railroads' weighted average cost of capital to be approximately 5% higher due to their much more limited access to the capital markets, greater reliance on a limited number of customers and perceived higher risk. Adding the additional 5% yields an opportunity cost of \$272,183. This fee was not incorporated into RLBA's analysis above but represents another expense that would lower GNP's free cash flow even further.

Of the four scenarios listed in this report, the lower the scenario number, the more likely it is to occur in RLBA's opinion.

Additional Infrastructure Necessary to Support Rail Operations

RLBA understands that the prior freight operations on this line included a wye track to turn railcars and locomotives and a storage track to store, service and repair locomotive(s). Both of these assets were on a portion of the rail line that is now railbanked and not able to be utilized by GNP should operations in Snohomish County start again. As such, RLBA was asked to estimate the cost associated with constructing a new wye track and locomotive storage track on the subject rail line.

RLBA's Railroad Engineering Expert reviewed potential sites on which to locate a wye track and storage track on his inspection trip in June 2023. Due to the mountainous terrain over most of the route between Woodinville and Snohomish Junction, the most logical location at which to construct a wye track is believed to be in Maltby, near the north end of the existing double-ended siding track, milepost 30.20 on the west side of the existing siding and main track. Construction of a wye track at this location would require acquisition of property west of the existing railroad right of way and would require at-grade crossings across Broadway Avenue on two legs of the wye track. An order of magnitude cost estimate to construct a wye track consisting of two legs approximately 1,000 feet in length and a tail track of approximately 300 feet in length would likely range between \$460,000 and \$575,000, not inclusive of property acquisition or permitting. Again, due to the lack of information provided on the potential rail operation it is difficult to say if a new wye and storage track would be necessary so these estimates were not included in any of RLBA's work above or other reports pertaining to the subject rail line but are mentioned here to provide a magnitude of cost should they be needed.



APPENDICES

AUGUST 25, 2023

Appendix One
Scenario 1 (Dollars in Thousands)

	2025	2026	2027	2028	2029	2030	2031	2032
Revenue Cars Handled	-	-	-	-	-	-	-	-
Average Cars Stored	-	-	-	-	-	-	-	-
Revenue from Switching	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Revenue From Transloading								
Revenue from Storage	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Revenue	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Operating Cost*	\$ 533	\$ 545	\$ 557	\$ 569	\$ 582	\$ 595	\$ 608	\$ 622
EBITDA	\$ (533)	\$ (545)	\$ (557)	\$ (569)	\$ (582)	\$ (595)	\$ (608)	\$ (622)
Depreciation & Amort. ("D&A")	\$ 80	\$ 80	\$ 80	\$ 90	\$ 80	\$ 80	\$ 80	\$ 90
EBIT	\$ (613)	\$ (625)	\$ (637)	\$ (659)	\$ (662)	\$ (675)	\$ (688)	\$ (712)
Net Income (NI)	\$ (705)	\$ (719)	\$ (733)	\$ (758)	\$ (761)	\$ (776)	\$ (791)	\$ (819)
Cash Flow from Ops (NI + D&A)	\$ (625)	\$ (639)	\$ (653)	\$ (668)	\$ (681)	\$ (696)	\$ (711)	\$ (729)
CapEx	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523
Free Cash Flow	\$ (1,148)	\$ (1,162)	\$ (1,176)	\$ (1,191)	\$ (1,204)	\$ (1,219)	\$ (1,234)	\$ (1,252)
Property, Plant & Eq.	1.65	1.65	1.65	1.65	1.65	1.65	1.65	1.65
Freight Revenue per Carload	\$ 676	\$ 690	\$ 704	\$ 718	\$ 719	\$ 719	\$ 719	\$ 720
Storage Revenue per car/day	\$ 9	\$ 9	\$ 9	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10
<i>Storage Revenue per car/day change</i>		<i>5.00%</i>	<i>-3.00%</i>	<i>6.00%</i>	<i>-2.00%</i>	<i>0.00%</i>	<i>5.00%</i>	<i>0.00%</i>
* Assumes a 2 man crew, operating 3 days per week								
2 man Crew Cost Assumption w/ Loco Fuel, lease and maint	\$ 1,828	per start (actual)						
3x/week	\$ 285	\$ 292	\$ 299	\$ 306	\$ 314	\$ 322	\$ 330	\$ 338
5x/week	\$ 475	\$ 487	\$ 499	\$ 511	\$ 524	\$ 537	\$ 550	\$ 564
MOW OpEx	\$ 248	\$ 253	\$ 258	\$ 263	\$ 268	\$ 273	\$ 278	\$ 284
MOW CapEx	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523
MOE Expense (5% Revenue)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
G&A Expense (20% Revenue)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Appendix Two
Scenario 2 (Dollars in Thousands)

	2025	2026	2027	2028	2029	2030	2031	2032
Revenue Cars Handled	106	108	110	111	113	114	116	117
Average Cars Stored	-	-	-	-	-	-	-	-
Revenue from Switching	\$ 72	\$ 75	\$ 77	\$ 80	\$ 81	\$ 82	\$ 83	\$ 84
Revenue From Transloading								
Revenue from Storage	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Revenue	\$ 72	\$ 75	\$ 77	\$ 80	\$ 81	\$ 82	\$ 83	\$ 84
Operating Cost*	\$ 551	\$ 564	\$ 576	\$ 589	\$ 602	\$ 615	\$ 629	\$ 643
EBITDA	\$ (479)	\$ (489)	\$ (499)	\$ (509)	\$ (521)	\$ (533)	\$ (546)	\$ (559)
Depreciation & Amort. ("D&A")	\$ 80	\$ 80	\$ 80	\$ 90	\$ 80	\$ 80	\$ 80	\$ 90
EBIT	\$ (559)	\$ (569)	\$ (579)	\$ (599)	\$ (601)	\$ (613)	\$ (626)	\$ (649)
Net Income (NI)	\$ (643)	\$ (655)	\$ (665)	\$ (689)	\$ (691)	\$ (705)	\$ (719)	\$ (746)
Cash Flow from Ops (NI + D&A)	\$ (563)	\$ (575)	\$ (585)	\$ (599)	\$ (611)	\$ (625)	\$ (639)	\$ (656)
CapEx	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523
Free Cash Flow	\$ (1,086)	\$ (1,098)	\$ (1,108)	\$ (1,122)	\$ (1,134)	\$ (1,148)	\$ (1,162)	\$ (1,179)
Property, Plant & Eq.	1.65	1.65	1.65	1.65	1.65	1.65	1.65	1.65
Freight Revenue per Carload	\$ 676	\$ 690	\$ 704	\$ 718	\$ 719	\$ 719	\$ 719	\$ 720
Storage Revenue per car/day	\$ 9	\$ 9	\$ 9	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10
<i>Storage Revenue per car/day change</i>		5.00%	-3.00%	6.00%	-2.00%	0.00%	5.00%	0.00%
* Assumes a 2 man crew, operating 3 days per week								
2 man Crew Cost Assumption w/ Loco Fuel, lease and maint	\$ 1,828	per start (actual)						
3x/week	\$ 285	\$ 292	\$ 299	\$ 306	\$ 314	\$ 322	\$ 330	\$ 338
5x/week	\$ 475	\$ 487	\$ 499	\$ 511	\$ 524	\$ 537	\$ 550	\$ 564
MOW OpEx	\$ 248	\$ 253	\$ 258	\$ 263	\$ 268	\$ 273	\$ 278	\$ 284
MOW CapEx	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523
MOE Expense (5% Revenue)	\$ 4	\$ 4	\$ 4	\$ 4	\$ 4	\$ 4	\$ 4	\$ 4
G&A Expense (20% Revenue)	\$ 14	\$ 15	\$ 15	\$ 16	\$ 16	\$ 16	\$ 17	\$ 17

Appendix Three
Scenario 3 (Dollars in Thousands)

	2025	2026	2027	2028	2029	2030	2031	2032
Revenue Cars Handled	-	-	-	-	-	-	-	-
Average Cars Stored	91	91	91	91	91	91	91	91
Revenue from Switching	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Revenue From Transloading								
Revenue from Storage	\$ 299	\$ 314	\$ 304	\$ 323	\$ 316	\$ 316	\$ 332	\$ 332
Total Revenue	\$ 299	\$ 314	\$ 304	\$ 323	\$ 316	\$ 316	\$ 332	\$ 332
Operating Cost*	\$ 608	\$ 624	\$ 633	\$ 650	\$ 661	\$ 674	\$ 691	\$ 705
EBITDA	\$ (309)	\$ (310)	\$ (329)	\$ (327)	\$ (345)	\$ (358)	\$ (359)	\$ (373)
Depreciation & Amort. ("D&A")	\$ 80	\$ 80	\$ 80	\$ 90	\$ 80	\$ 80	\$ 80	\$ 90
EBIT	\$ (389)	\$ (390)	\$ (409)	\$ (417)	\$ (425)	\$ (438)	\$ (439)	\$ (463)
Net Income (NI)	\$ (447)	\$ (449)	\$ (470)	\$ (480)	\$ (488)	\$ (503)	\$ (505)	\$ (532)
Cash Flow from Ops (NI + D&A)	\$ (367)	\$ (369)	\$ (390)	\$ (390)	\$ (408)	\$ (423)	\$ (425)	\$ (442)
CapEx	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523
Free Cash Flow	\$ (890)	\$ (892)	\$ (913)	\$ (913)	\$ (931)	\$ (931)	\$ (946)	\$ (965)
Property, Plant & Eq.	1.65	1.65	1.65	1.65	1.65	1.65	1.65	1.65
Freight Revenue per Carload	\$ 676	\$ 690	\$ 704	\$ 718	\$ 719	\$ 719	\$ 719	\$ 720
Storage Revenue per car/day	\$ 9	\$ 9	\$ 9	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10
<i>Storage Revenue per car/day change</i>		<i>5.00%</i>	<i>-3.00%</i>	<i>6.00%</i>	<i>-2.00%</i>	<i>0.00%</i>	<i>5.00%</i>	<i>0.00%</i>
* Assumes a 2 man crew, operating 3 days per week								
2 man Crew Cost Assumption w/ Loco Fuel, lease and maint	\$ 1,828	per start (actual)						
3x/week	\$ 285	\$ 292	\$ 299	\$ 306	\$ 314	\$ 322	\$ 330	\$ 338
5x/week	\$ 475	\$ 487	\$ 499	\$ 511	\$ 524	\$ 537	\$ 550	\$ 564
MOW OpEx	\$ 248	\$ 253	\$ 258	\$ 263	\$ 268	\$ 273	\$ 278	\$ 284
MOW CapEx	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523
MOE Expense (5% Revenue)	\$ 15	\$ 16	\$ 15	\$ 16	\$ 16	\$ 16	\$ 17	\$ 17
G&A Expense (20% Revenue)	\$ 60	\$ 63	\$ 61	\$ 65	\$ 63	\$ 63	\$ 66	\$ 66

Appendix Four
Scenario 4 (Dollars in Thousands)

	2025	2026	2027	2028	2029	2030	2031	2032
Revenue Cars Handled	106	108	110	111	113	114	116	117
Average Cars Stored	91	91	91	91	91	91	91	91
Revenue from Switching	\$ 72	\$ 75	\$ 77	\$ 80	\$ 81	\$ 82	\$ 83	\$ 84
Revenue From Transloading								
Revenue from Storage	\$ 299	\$ 314	\$ 304	\$ 323	\$ 316	\$ 316	\$ 332	\$ 332
Total Revenue	\$ 371	\$ 388	\$ 382	\$ 402	\$ 398	\$ 398	\$ 415	\$ 416
Operating Cost*	\$ 626	\$ 642	\$ 652	\$ 669	\$ 682	\$ 695	\$ 712	\$ 726
EBITDA	\$ (255)	\$ (254)	\$ (270)	\$ (267)	\$ (284)	\$ (297)	\$ (297)	\$ (310)
Depreciation & Amort. ("D&A")	\$ 80	\$ 80	\$ 80	\$ 90	\$ 80	\$ 80	\$ 80	\$ 90
EBIT	\$ (335)	\$ (334)	\$ (350)	\$ (357)	\$ (364)	\$ (377)	\$ (377)	\$ (400)
Net Income (NI)	\$ (386)	\$ (384)	\$ (403)	\$ (410)	\$ (419)	\$ (433)	\$ (433)	\$ (460)
Cash Flow from Ops (NI + D&A)	\$ (306)	\$ (304)	\$ (323)	\$ (320)	\$ (339)	\$ (353)	\$ (353)	\$ (370)
CapEx	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523
Free Cash Flow	\$ (829)	\$ (827)	\$ (846)	\$ (843)	\$ (862)	\$ (876)	\$ (876)	\$ (893)
Property, Plant & Eq.	1.65	1.65	1.65	1.65	1.65	1.65	1.65	1.65
Freight Revenue per Carload	\$ 676	\$ 690	\$ 704	\$ 718	\$ 719	\$ 719	\$ 719	\$ 720
Storage Revenue per car/day	\$ 9	\$ 9	\$ 9	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10
<i>Storage Revenue per car/day change</i>		5.00%	-3.00%	6.00%	-2.00%	0.00%	5.00%	0.00%
* Assumes a 2 man crew, operating 3 days per week								
2 man Crew Cost Assumption w/ Loco Fuel, lease and maint	\$ 1,828	per start (actual)						
3x/week	\$ 285	\$ 292	\$ 299	\$ 306	\$ 314	\$ 322	\$ 330	\$ 338
5x/week	\$ 475	\$ 487	\$ 499	\$ 511	\$ 524	\$ 537	\$ 550	\$ 564
MOW OpEx	\$ 248	\$ 253	\$ 258	\$ 263	\$ 268	\$ 273	\$ 278	\$ 284
MOW CapEx	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523	\$ 523
MOE Expense (5% Revenue)	\$ 19	\$ 19	\$ 19	\$ 20	\$ 20	\$ 20	\$ 21	\$ 21
G&A Expense (20% Revenue)	\$ 74	\$ 78	\$ 76	\$ 80	\$ 80	\$ 80	\$ 83	\$ 83

Attachment 9

RLBA, Cost to Cure and On-Going Maintenance Costs (August 25, 2023)



COST TO CURE AND ON-GOING MAINTENANCE COSTS OF THE SNOHOMISH COUNTY RAILROAD

Prepared for:
SNOHOMISH COUNTY

Prepared by:
R.L. BANKS & ASSOCIATES, INC.

AUGUST 25, 2023



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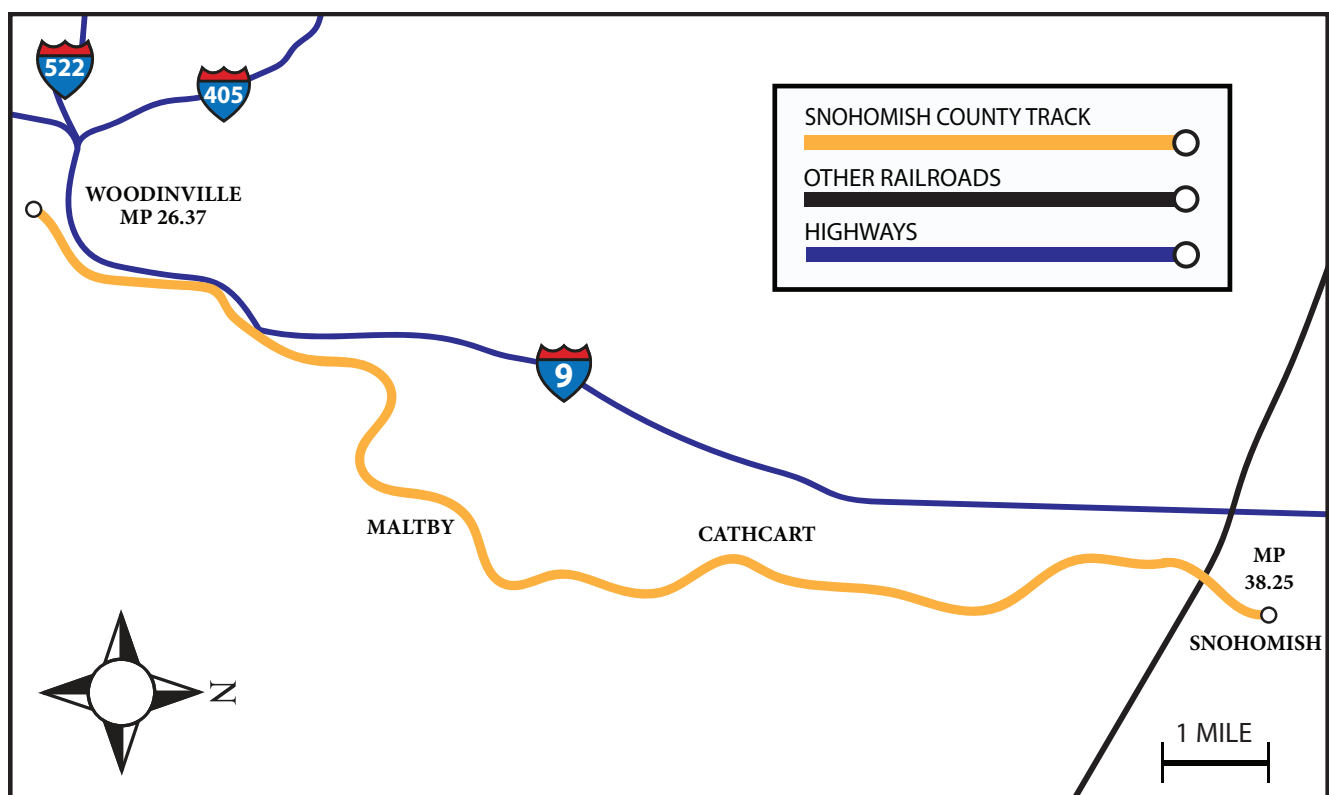
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Introduction

R.L. Banks & Associates, Inc. (RLBA) was contracted by Snohomish County to determine the cost to rehabilitate the Snohomish County Railroad. The line at issue consists of approximately 12 miles of Snohomish County-owned right-of-way between Milepost 38.25 in Snohomish, WA and Milepost 26.38 at the Snohomish County/King County line, consisting of 11.88 miles of main track and 13.26 total miles of track. However, the northern-most portion of the subject line connects to abandoned right of way, on which rehabilitation would not serve any useful purpose. As such, this Cost to Cure report did not take into account any rehabilitation between MP 38 and MP 38.25, which includes everything north of the “wye” switches that connect to the BNSF mainline, including the large bridge structure over the Snohomish River. This effort determines the cost to rehabilitate the line to Class 1 Track Safety Standards as of August 25, 2023, a value characterized by RLBA as the “Cost to Cure.”

The Cost to Cure estimations produced in this report are based on findings recorded during a physical inspection of the railroad which occurred on June 7-9, 2023, conducted by Don Bagley, RLBA’s Senior Associate, Transportation Engineering. At the time of this assignment, it is of RLBA’s understanding that the track on the Snohomish County Railroad is currently designated as “Excepted Track” in accordance with Part 213.4 in the Code of Federal Regulations, Track Safety Standards, Part 213. This designation indicates that track conditions previously failed to meet compliance standards required by FRA Track Safety Standards pertaining to Class 1 track. A schematic map of the Snohomish County Railroad inspected by RLBA is below in Figure 1.

Figure 1
Map of the Snohomish County Railroad





The cost estimates presented herein are opinions of probable rehabilitation and maintenance costs. These opinions are based on the application of RLBA's reasonable professional judgment and experience. The estimates do not constitute a warranty, expressed or implied, that contractors' bids nor negotiated prices of work will correspond with the opinions of probable costs prepared by RLBA. All cost estimates are expressed in 2023 dollars.

Cost to Cure

For the purposes of this report, RLBA defines Cost to Cure as:

- “An opinion of the dollar value required to rehabilitate a railroad to Class 1 Track Safety Standards, as defined by the Federal Railroad Administration (FRA).”

Class 1 Track Safety Standards allow a maximum speed of 10 MPH by freight trains and 15 MPH by passenger trains. It is typically the lowest allowable level of maintenance standards permitted by the FRA in connection with continued rail freight and/or passenger operations and generally considered to be sufficient to support a minimal level of safe, continued rail operations consistent with the service requirements placed upon the infrastructure.

Uses of this Report

Per Snohomish County's request, this report is solely intended to provide an estimate of the Cost to Cure of the subject line as part of an adverse abandonment proceeding before the Surface Transportation Board.

Summary of Cost to Cure

As explained in greater detail in the following sections, RLBA determined the total Cost to Cure of the subject line to Class 1 Track Safety Standards to be **\$2,525,000** as of August 25, 2023. In addition to the Cost to Cure, RLBA estimated the total, average, maintenance expenditures necessary to retain the line in a state of good repair to be **\$771,000** annually. A summary of the different components constituting RLBA's Cost to Cure estimate is shown below in Table 1.

Table 1
Snohomish County Line Cost to Cure and Annual Maintenance Summaries

Item	Cost
Rehabilitation Cost	\$ 2,525,000
Annual Maintenance Expense (Opex and Capex)	\$ 771,000

Methodology to Determine Cost to Cure

The Cost to Cure amount advanced in this report includes a complete **rehabilitation** of track and structural components such as ties, rail, ballast, grade crossings and bridges required to return a rail line to service. This activity is defined below:

- **Rehabilitation** includes necessary repair of existing track and bridge components such as switch timbers, ties, rail, ballast, culverts, bridge decking and grade crossings. Rehabilitation is commonly required in cases where the track has been out of service a short period or has not been properly maintained (deferred maintenance).

Rehabilitation captures those activities and costs necessary to restore track to a condition appropriate to support service and “catch-up” on deferred maintenance. In the absence of such rehabilitation taking place, annual maintenance expenditures would be higher as they are based on the assumption that maintenance has not been deferred. Rehabilitation is required on infrastructure whose assets need significant renewal, which renewal can take place using machinery operating on or next to the track structure.

Methodology to Determine On-Going Maintenance of Way Cost

When producing estimated maintenance costs and in accordance with industry standards, RLBA generally organizes its approach and findings into two, infrastructure maintenance activities: 1) **Maintenance of Way (MOW) Opex** (Routine Maintenance) and 2) **MOW Capex** (Program Maintenance). Combined, these two maintenance activities capture the upkeep needed to retain a railroad in a state of good repair. Those terms are defined as follows:

- **MOW Opex (Routine Maintenance)** encompasses the manpower and materials to maintain the physical plant of a railroad (i.e., the track structure, grading, bridges, road crossings, signals and buildings) in a steady state condition. MOW expenses captured in operating expenses are considered “routine maintenance” expenses and encompass the day-to-day upkeep and repair activity required to ensure that the track structure is available to support railroad operations and
- **MOW Capex (Program Maintenance)** encompasses the periodic replacement of railroad right of way and track structure and the other major renewal projects toward the goal of extending the useful life of the track structure in a steady state condition or the outright replacement of existing railroad right of way and track structure (sometimes also referred to as “Track Expansion Capital Expenses”).

To identify what rehabilitation and on-going annual Opex and Capex maintenance costs would be required to bring the Snohomish County Railroad to Class 1 Track Safety Standards, RLBA first conducted an onsite inspection to determine the physical condition of the railroad. The inspections focused on rail, crossies, other track materials, roadbed, track geometry, cursory inspection of bridge structures and a limited, cursory inspection of culverts where such could be seen or deemed to possibly exist. The track segment inspected consisted of 11.88 miles of main track, 1.38 miles of siding tracks, six (6) main track turnouts/switches, two (2) sidetrack turnouts/switches and fifteen (15) at-grade road crossings. In general, RLBA found the condition of the railroad to be substandard, consistent with that of a line experiencing deferred maintenance over some time. Table 2 summarizes the track components of the line examined by RLBA during its site visit. The subsections that follow provide a summary of the condition of each major track component observed on the line.



Table 2
Summary of Assets Inspected

Track (Miles)	
Main Track	11.88
Side Track	1.38
Total Track	13.26
Turnouts (Number)	
Main Track Turnouts	6
Side Track Turnouts	2
Total Turnouts	8
Crossings (Number)	
Main Track Improved (Active Protection)	4
Main Track Improved (Passive Protection)	2
Unimproved	9
Total Grade Crossings	15
Bridges (Linear Feet)	
Steel	180
Concrete	586
Wooden	4,050
Total Bridges	4,816

Cost to Cure Estimations

RLBA assumed that the track use of the subject line would warrant rehabilitation to Class 1 Track Safety Standards to meet the needs of its use as a low density shortline railroad operation. The intended use of the line has a substantial impact on RLBA's findings and recommendations regarding the Cost to Cure, particularly as it pertains to the rail and structures along the line.

As is the case in all lines that have experienced significant deferred maintenance, RLBA strongly recommends engaging a contractor to perform ultrasonic testing on the rail to determine the rail's structural integrity. A significant amount of rail examined by RLBA on the line was not subjected to the controlled cooling method during its manufacturing, a method now standard on modern rail, which significantly reduces the risk of rail defects. Ultrasonic testing was beyond the scope of RLBA's engagement in this matter and, therefore, no costs were estimated in connection with the potential replacement of rails triggered by such an inspection. In other words, RLBA's Cost to Cure estimate in this proceeding may significantly understate actual rehabilitation costs.

Rail

Particular attention was paid to the type and condition of the rail along the line. Not only is rail critical to safe and reliable operations, it is also the single most costly component of track structure. RLBA observed that the Snohomish County Railroad consisted of 11.88 miles of main track and 1.38 miles of yard tracks and sidings. This segment of the line consisted of 110-112 pound jointed rail and 112-115 pound continuously welded rail (CWR) rail, manufactured between 1926 and 1965, although the dates of

manufacture could not be verified across the entire segment. With the exception of the 115-pound CWR rail, none of the rail reflected the use of any advanced manufacturing methods, such as controlled cooling, a process which greatly increases the structural integrity of the rail. As a result, this rail may be more susceptible to cracks or breaks over time.

“CWR” refers to sections of track welded together at each end which eliminates most joints, while “jointed rail” refers to rail sections that are bolted together end-to-end, a common railroad construction method. In general, the heavier the rail, the more robust said rail is. No FRA non-compliance issues affecting Class 1 track were observed with regard to track surface or alignment on the track segment. In light of the above, RLBA’s inspector deemed that no rail replacement was required to bring the line to Class 1 Track Safety Standards although ultrasonic testing of the rail might reveal defects that cannot be observed even by experienced inspectors, requiring replacement and expenses not reflected in RLBA’s estimates.

Other Track Material

Other track material (OTM) refers to the various fasteners, plates and spikes which connect the rail both to adjoining pieces of rail and the wooden ties underneath the rail. RLBA observed that the Snohomish County Railroad line evaluated employed a mix of double-shoulder and single-shoulder tie plates. Tie plates are metal plates placed between a rail and supporting wooden ties, which hold the rail in gauge and prevents excess wear of the ties. The single-shoulder tie plates found on the line are substandard in the industry because they are susceptible to increased wear of the track structure if operated over by modern rail equipment, particularly the wooden ties underneath the rail. Their use may eventually lead to unsafe operating conditions. RLBA’s inspector deemed the OTM on the line to be sufficient to support Class 1 operation.

Ties

Ties – the pieces of wood to which rails are anchored – are critical to maintaining the stability of the track and the primary consideration in determining what FRA Track Safety Standard governs a segment of railroad. As best as could be observed due to the heavy vegetation, the overall crosstie condition observed between MP 26.37 and MP 27.10 and between MP 29.46 and MP 37.90 (south end of Snohomish River bridge) is marginal and does not meet the FRA Track Safety Standards regarding Class 1 track stated in the Code of Federal Regulations 49 CFR, Subpart D, §213.109. It is worth noting that sometime in the past, steel crossties have been interspersed about every 4th to 5th tie on curves in the wood tie track between MP 27.10± and MP 29.46± on the heavy grade, heavy curvature portion of this track segment.

RLBA determined that most of the ties along the subject line to be scrap and requiring replacement; a sampling of ties along the line revealed that only approximately 10% of ties along the Snohomish County Railroad were deemed to be “relay,” or of reusable quality. However, it is important to note that FRA regulations stipulate that the minimum number of relay ties required to support Class 1 Track Standards are only five per 39 feet of rail in tangent track and six per 39 feet of rail in curves over two degrees. Despite these low thresholds, substantial tie replacement would be required to bring the line to Class 1 operating standards.

Ballast, Surfacing and Grading

Surfacing refers to the ballast (i.e., crushed stone) and underlying foundation, which supports the ties and facilitates proper drainage. A properly surfaced railroad features clean, hard, jagged stone manicured to form a crowned shoulder on the edges of the rail with appropriate ditching beyond said shoulder.

Vegetation conditions observed along the entire length of the main track between MP 27.00± and MP 37.90 (south end of Snohomish River Bridge) reflect vegetation and brush that have been allowed to grow unchecked on both sides of the main track, up to and into the ballast section shoulder and cross-tie area.

As a result, much of the entire track segment would be considered as non-compliance conditions/issues regarding Subpart B, §213.37 Vegetation, as brush and trees on much of this track segment would significantly contact the sides of rolling equipment, interfere with railroad employees performing normal trackside duties and, in some locations, would be considered impassable by rolling stock. As such, significant ballast replacement and surfacing work would be required to support Class 1 Track Standards. Surfacing work typically includes installing fresh ballast and raising the level of the track in some areas, ensuring that the track itself is aligned correctly, clearing vegetation and ensuring proper drainage exists on the line.

Additionally, during the inspection, parallel drainage ditches were observed to exhibit heavy vegetation growth, impeding the natural flow of water runoff and, in some locations, standing water was observed to exist. Considerable cleaning of the parallel ditches would be required should rail service be reinstituted on this segment of track.

Structures

RLBA observed two major categories of structures on the Snohomish County Railroad: bridges and culverts. The track segment inspected features eight (8) bridge structures. The structure over Connelly Road at MP 34.71 underwent major repairs in 2019 due to having been severely damaged as a result of being struck by an over-height truck and is in generally good condition. The bridge structure at MP 36.92 is a 44-span open deck pile trestle (ODPT) and is generally in good condition except for the first 7 spans on the south end of the structure. Numerous timber stringers within these 7 spans appear to be in poor condition and based on prior review of the 2014 annual bridge inspection report and conversation with Rail Star Engineering personnel, replacement of stringers in these 7 spans is recommended should rail service be reinstituted on this line. Prior review of the 2014 annual bridge inspection report also indicates that the remaining portion of this structure appears to have undergone significant renewal work by the line's former owner, BNSF Railway, however the renewal process stopped before completion of the entire structure. New timber bents were constructed in the 7 spans on the south end but new stringers were never installed on the new bents.

In the event the decision is made to reimplement rail service on this line, RLBA recommends serious consideration be given to completing this work by installing new stringers on the new bents previously constructed. An estimate of this work is included in RLBA's rehabilitation cost. Based on cursory visual inspection and prior review of the 2014 annual Bridge Inspection Report, the remaining five (5) structures on this track segment between Woodinville and Snohomish Jct. appear to be in relatively fair to good condition, sufficient to support Class 1 operations. No prior bridge inspection information was available in connection with the large bridge structure over the Snohomish River while track in Snohomish north of the bridge has been disconnected and removed in some locations.



Regarding culverts, an estimated 95% of the culverts and/or possible culvert locations on this track segment could not be positively identified nor observed due to extremely heavy vegetation and brush that has been allowed to grow unchecked on this segment of track, both in the cross-tie/ballast area of the track structure and on both sides of the track structure, as can be seen in the photos included in the Appendix A.

RLBA strongly recommends that a qualified bridge engineer be retained to provide estimates of the bridge repair and replacement costs, which could be substantial, if reinstitution of freight rail service on the subject line remains under consideration. Only after such an inspection is completed can a complete bridge and structure replacement cost estimate be provided with a higher degree of confidence. RLBA recommends that all bridges be formally inspected, rated and repaired in accordance with an FRA-compliant bridge management plan. Additionally, RLBA recommends a thorough inspection of all culverts be performed to ensure the structural integrity of each culvert and its capacity to adequately handle current surface water runoff.

Cost to Cure to Class 1 Track Safety Standards

RLBA determined the Cost to Cure the Snohomish County Railroad to Class 1 track standards to be **\$2,525,000** as of August 25, 2023. This estimation is based upon examination of the existing track structure elements as noted in the previous section. A detailed itemization of the Cost to Cure the track structure to Class 1 track standards can be found in Table 3 below.

Table 3
Cost to Cure Snohomish County Railroad to Class 1 Track Safety Standards

Item	Quantity	Unit	Unit Cost	Total Cost
Trackside Brush Cutting	12	Miles	\$ 3,120	\$ 37,400
Unload Cross-ties	6,912	Each	\$ 3	\$ 20,700
Cross-ties* (New 7" x 9" Grade 5)	6,912	Each	\$ 85	\$ 587,500
Install and Tamp Newly Installed Cross-ties	6,912	Each	\$ 47	\$ 324,900
Ballast + Freight + Unloading	6,660	Tons	\$ 60	\$ 399,600
Weed Spray/Vegetation Control	13	Miles	\$ 520	\$ 6,800
Ditching (Parallel Drainage Ditches)	73,920	Linear Feet	\$ 1	\$ 73,900
Ultrasonic Rail Testing	12	Miles	\$ 315	\$ 3,800
Spikes (For Newly Installed Cross-ties)	272	Kegs	\$ 75	\$ 20,400
Bridge Structures (Bridge at MP 36.92)	1	Lump Sum	\$ 246,000	\$ 246,000
Surface Track	12	Miles	\$ 34,320	\$ 411,800
Surface Turnouts	8	Each	\$ 2,500	\$ 20,000
Active Crossing Protection (Testing only)	4	Each	\$ 1,000	\$ 4,000
Unimproved Grade Crossing	118	Linear Feet	\$ 137	\$ 16,200
Mobilization & Demobilization (1.2%)	1	Lump Sum	\$ 26,076	\$ 26,100
Engineering (5%)	1	Lump Sum	\$ 108,650	\$ 108,700
Contingencies (10%)	1	Lump Sum	\$ 217,300	\$ 217,300
Total Estimated Project Cost				\$ 2,525,000

Values may not appear to add due to rounding



A 1.2% contingency was applied to the value of materials and labor to capture the cost of mobilizing and demobilizing labor and equipment, a 5% contingency was applied to the value of materials and labor to capture the cost of formal engineering plans to complete the proposed rehabilitation work and a 15% general contingency budget was applied to the value of materials and labor to cover potential project cost overruns.

On-Going Maintenance Cost Estimations

Much like Cost to Cure, the intended use of the line has a substantial impact on RLBA's findings and recommendations regarding the on-going MOW cost, particularly as it pertains to the rail and structures along the line. It is important to note that given the rehabilitation of the line needed to support Class 1 Track Safety Standards, much of the material along the railroad would be in good condition upon the commencement of operations and would not require significant Capex over at least the first several years, post rehabilitation. Because of this, actual on-going maintenance of way costs likely would be lower, at least initially, than the values expressed here, as maintenance of recently installed materials could be deferred successfully until they approached the ends of their life cycles.

MOW Opex Expense

RLBA determined the annual, average MOW Opex cost to maintain the rehabilitated Snohomish County Railroad track to Class 1 Track Safety Standards to be about **\$248,000**, or **\$18,703** per mile. Opex estimates are deemed sufficient to carry out all of the daily tasks necessary to maintain railroad infrastructure to a condition adequate to host the daily running of trains, given the listed track quality, necessary FRA inspections and requirements. A breakdown of estimated MOW Opex expense can be found in Table 4.



Table 4
Summary of Annual, Estimated MOW Opex to Maintain the Snohomish County Railroad to Class 1 Standards

Labor	Number	Rate	Hours/ Week	Overtime	Fringe	Annual Cost
Section Crew, Foreman	1	\$ 30.82	8	10%	40%	\$ 20,721
Section Crew, Laborer	2	\$ 28.32	8	10%	40%	\$ 19,041
Smoothing Gang, Foreman	1	\$ 30.82	2	10%	40%	\$ 5,180
Smoothing Gang, Operator	2	\$ 29.91	2	10%	40%	\$ 5,027
Track Inspection, Inspector	1	\$ 31.91	8	10%	40%	\$ 21,454
Welding Gang, Welder	1	\$ 30.82	2	10%	40%	\$ 5,180
Welding Gang, Helper	1	\$ 28.32	2	10%	40%	\$ 4,760
Supervisor, Roadmaster	1	\$ 48.08	8	0%	40%	\$ 28,109
Total Labor Cost						\$ 133,500
Materials & Services		Description		Annual Cost		
Vehicles & Machinery	Trucks					\$ 10,500
Materials & Tools	11% of labor cost					\$ 14,400
Contractor Services	Weed spray, brush cutting, bridge/culvert inspection and grade crossing signals					\$ 89,240
Total Materials & Services Cost						\$ 114,100
Grand Total Annual MOW Opex Estimate						\$ 248,000

Values may not appear to add due to rounding

MOW Opex, or routine maintenance, covers the largely labor-intensive, day-to-day tasks performed by MOW section personnel that are necessary to ensure that the track structure is available to host a carrier's train operations safely. These activities generally include inspections, switch stand and rod adjustments, lubricating, welding, re-spiking, replacing broken rail, spot the replacement and surfacing, spot tamping, signal department tests and inspections, and small, emergency repairs.

MOW Capex Expense

If the Snohomish County line is fully rehabilitated, there would be essentially no MOW Capex expense necessary on the line for several years to operate in a functional capacity. That said, there are several CapEx projects that would need to be addressed, particularly pertaining to the replacement and bridge repair. Total estimated CapEx to address all items on the subject line would be \$32,325,000.

Because it is not necessary to complete the CapEx prior to resuming freight rail service, the Capex expense advanced in this report was annualized to reflect the estimated combined average annual spend over the long-term life cycle of each individual track assets, in 2023 dollars. RLBA estimated the average, annual MOW Capex cost to maintain the Snohomish County Railroad track to Class 1 Track Safety Standards to be approximately **\$523,000**, or **\$39,442** per mile. An overview of the various program maintenance required to retain the Snohomish County line in a steady state condition at Class 1 Track Safety Standards can be seen in Table 5.



Table 5
Summary of Annual, Estimated MOW Capex to Maintain the Snohomish County Railroad to
Class 1 Standards

Program	Quantity	Units	Useful Life	Capex Value	Annualized Capex
Surfacing	13.26	Miles	10	\$ 526,422	\$ 52,642
Rail Replacement, Main Track	11.88	Miles	100	\$ 3,730,320	\$ 37,303
Rail Replacement, Side Track	1.38	Miles	100	\$ 433,320	\$ 4,333
Tie Replacement, Main Track	11.88	Miles	30	\$ 4,955,386	\$ 165,180
Tie Replacement, Side Track	1.38	Miles	30	\$ 475,327	\$ 15,844
Improved Grade Crossings	491	Linear Feet	8	\$ 154,665	\$ 19,333
Turnouts, Main Track	6	Each	30	\$ 264,000	\$ 8,800
Turnouts, Side Track	2	Each	30	\$ 76,000	\$ 2,533
Bridge, Steel	180	Linear Feet	100	\$ 4,491,000	\$ 44,910
Bridge, Concrete	586	Linear Feet	100	\$ 7,295,700	\$ 72,957
Bridge, Wooden	4,050	Linear Feet	100	\$ 9,922,500	\$ 99,225
Grand Total Annual MOW Capex Estimate					\$ 523,000

Values may not appear to add due to rounding

MOW Capex, or program maintenance, encompasses regular, periodic replacement of track and bridge components such as switch timbers, ties, rail, ballast and bridge decking, to renew the track structure. Tamping and surfacing of large contiguous sections of track also are normally performed under program maintenance activities. While much of MOW Capex work performed on any railroad may be similar to MOW Opex work, Capex work tends to be done by larger gangs that are not generally assigned to any particular territory, are better equipped, can focus on one or two specific functions, are more productive and are not expected to work on Opex issues that arise in the course of a typical day. The relative proportions of material to labor inputs are generally higher on Capex gangs than on Opex gangs. As a result, Capex work is typically capitalized, whereas Opex work is typically expensed.

To keep the Snohomish County line in a steady state condition meeting Class 1 Track Safety Standards, surfacing activities generally likely would run on an eight-year cycle. The above estimates associated with rail surfacing captures the cost of surfacing that cannot be accomplished by routine surfacing gangs. Crosstie replacement likely would commence on a thirty-year cycle. The MOW Capex estimates associated with rail replacement include contingencies sufficient to provide emergency laying of rail to replace rail lost to derailments. A significant portion of RLBA's capex estimates is associated with bridge replacement over a 100-year cycle. As previously mentioned, RLBA recommends a thorough inspection by a qualified engineer is necessary to provide an estimate of necessary bridge Capex in the near-term.

It is important to note that the useful lives of some railroad infrastructure assets are so long that a railroad can postpone some of its Capex over many years without suffering the immediate economic consequences of postponed repair or investment. Therefore, while the MOW Capex expense estimations advanced in this report reflect the average Capex amount that should be spent every year across the Snohomish County Railroad to keep the railroad's physical plant in a steady state condition; actual Capex expenses may vary significantly from year to year and across the program's life cycle.



Certification

I, Don Bagley, do hereby certify that to the best of my knowledge and belief:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and is my personal, unbiased, professional analyses, opinions and conclusions.

I have no specified or unspecified present or prospective interest in the properties that are the subject of this report and I have no personal interest or bias with respect to the parties involved.

My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result or the occurrence of a subsequent event.

I made a personal inspection of the property that is the subject of this report on June 7-9, 2023.

Submitted,

James D. Bagley



APPENDIX A INSPECTION PHOTOS

AUGUST 25, 2023





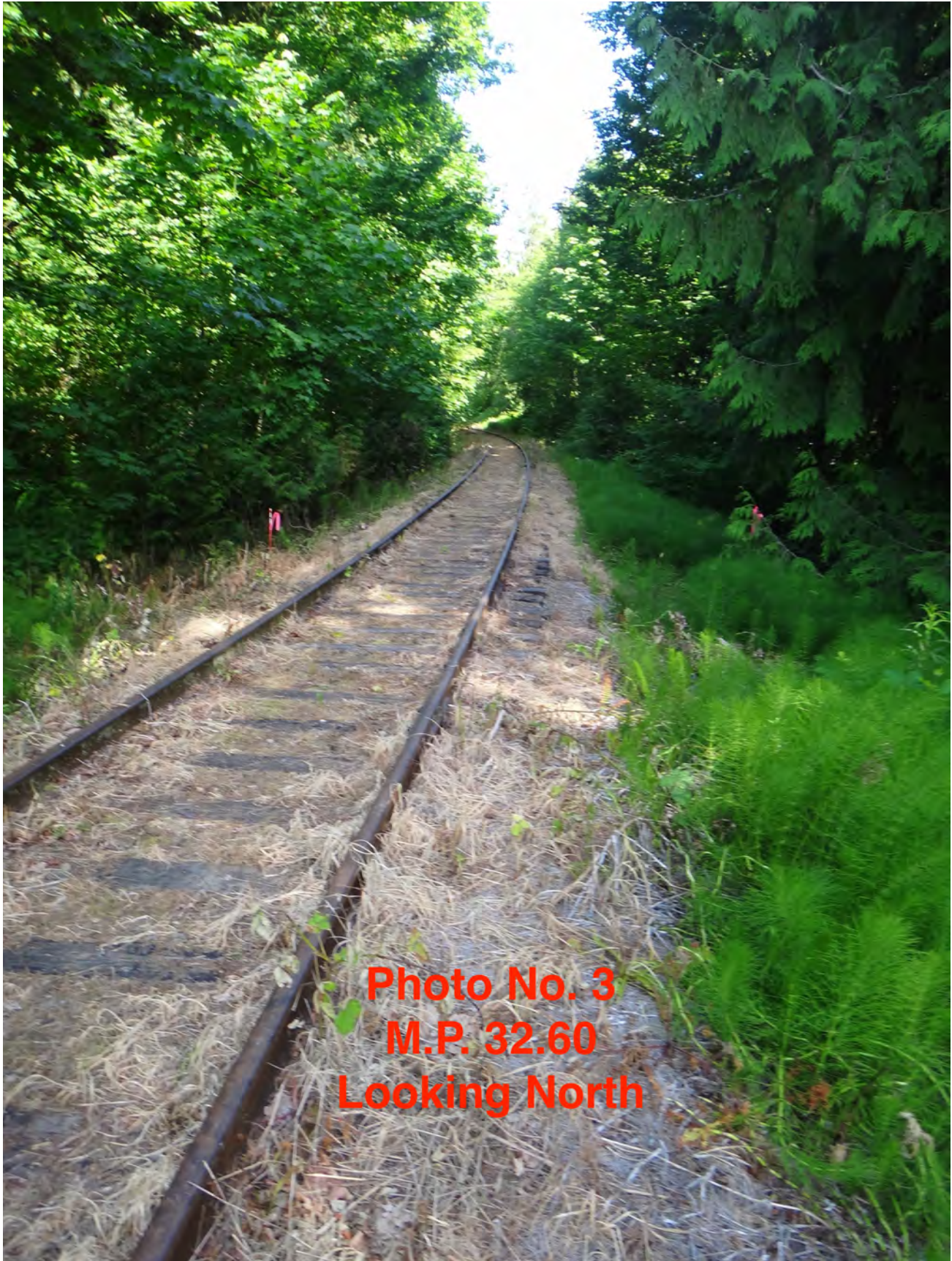










Photo NO. 8
M.P. 33.00
Looking South

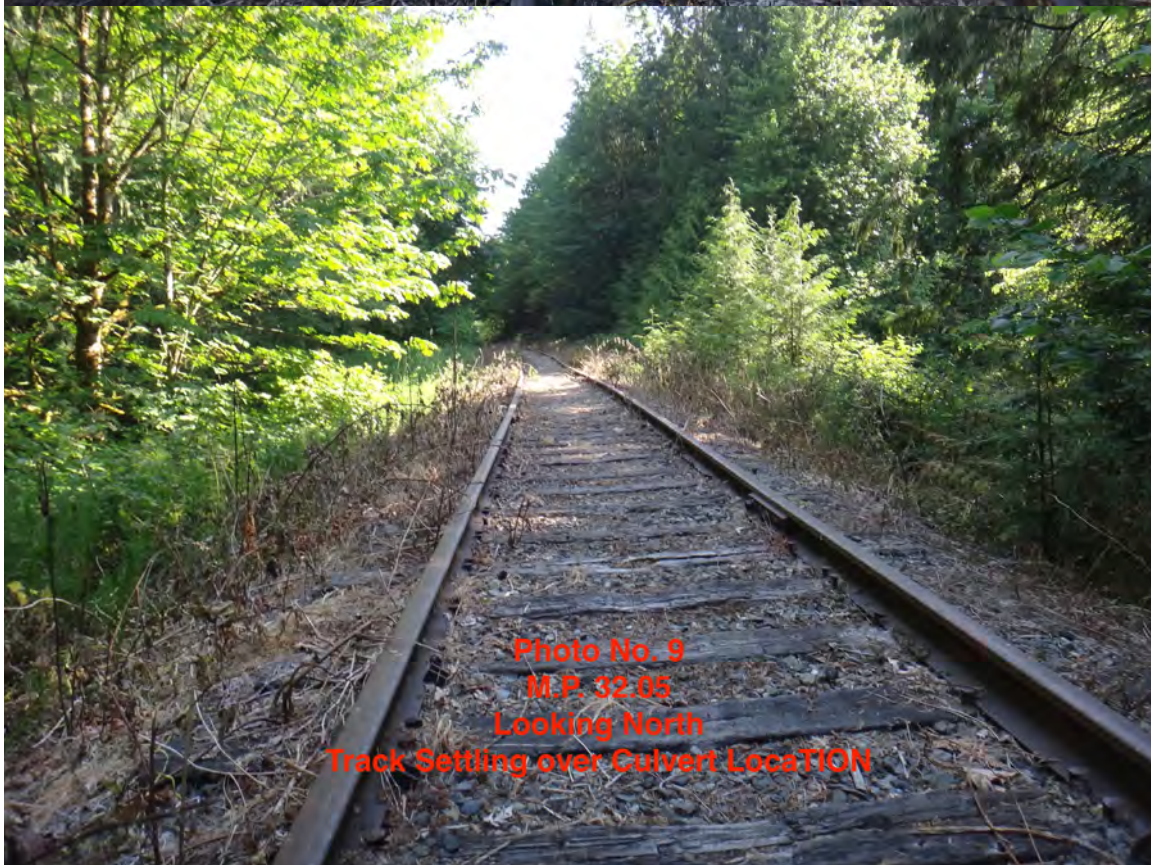


Photo No. 9
M.P. 32.05
Looking North
Track Settling over Culvert Location



Photo No. 10
M.P. 31.60
Looking South



Photo No. 11
M.P. 29.30
Looking South





Photo No. 14
M.P. 37.85
Looking North
Snohomish River Bridge



Photo No. 15
M.P. 37.95
Looking North
Overhead Thru Truss
Structure over Snohomish River



Attachment 10

RLBA, Net Liquidation Valuation (August 25, 2023)



NET LIQUIDATION VALUATION OF THE SNOHOMISH COUNTY RAILROAD

Prepared for:
SNOHOMISH COUNTY

Prepared by:
R.L. BANKS & ASSOCIATES, INC.

AUGUST 25, 2023



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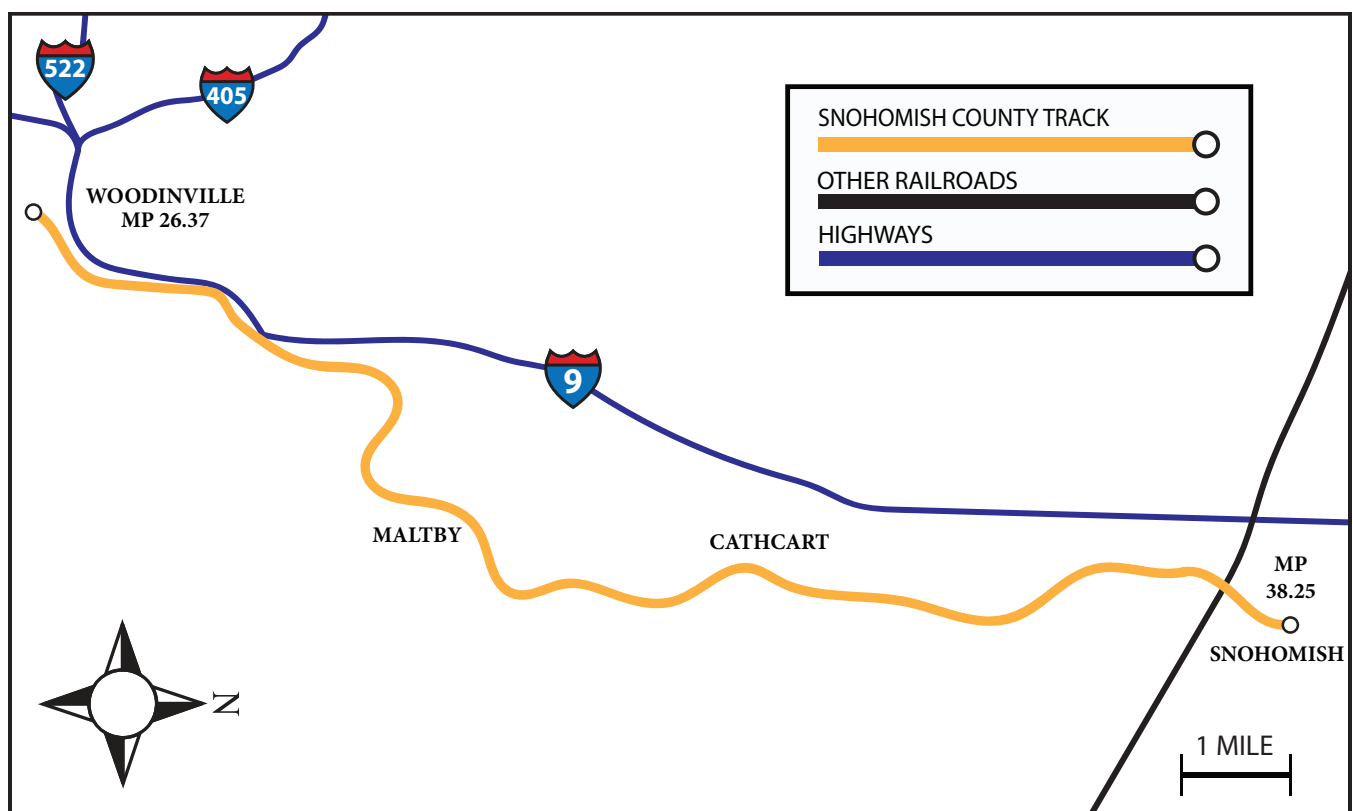
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Introduction

Snohomish County retained R.L. Banks & Associates, Inc. (RLBA) to perform a valuation of track assets constituting the Snohomish County Railroad, a corridor of track assets in Snohomish County. The Snohomish County Railroad consists of roughly 12 route miles, extending between MP 38.25 near Snohomish, WA and MP 26.38 near the Snohomish County/King County Line. The corridor includes 11.88 main-line miles and 13.26 total miles of track.

This effort determines the Net Liquidation Value (NLV) of track assets in the subject property as of August 25, 2023 based on findings recorded during a physical inspection of the assets which occurred on June 7-9, 2023 conducted by Don Bagley, RLBA's Senior Associate, Transportation Engineering. This report presents findings of the inspection, additional research and factors which influence the value of railroad rail, other track material (OTM) and ties.

Figure 1
Map of the Snohomish County Railroad



The cost and value estimates presented herein are opinions of current, probable values and costs. These opinions are based on the exercise of RLBA's reasonable professional judgment and experience. These estimates do not constitute a warranty, expressed or implied, that contractors' bids nor negotiated prices of work will correspond with the opinions of probable costs and values prepared by RLBA.



Net Liquidation Value

For the purposes of this valuation, RLBA defines NLV as:

- “An opinion of the dollar value which could be realized from a liquidation sale of a particular asset, assuming the seller is not under distress and, as such, has a reasonable period of time to identify and compare various offers for the assets, less the liquidation, administrative, marketing and transportation expenses incurred to remove and prepare said assets for sale, as of a certain date.”

Uses of this Report

Per Snohomish County’s request, this report is solely intended to provide an estimate of the NLV of the subject line as part of an adverse abandonment proceeding before the Surface Transportation Board.

Summary of Net Liquidation Value

As summarized below in Table 1 and seen in greater detail on Appendix One, the NLV of the Snohomish County Railroad is **\$1,747,000** as of August 25, 2023. That figure was determined via desktop application of current market prices to the physical inventory inspected. A summary of the material evaluated appears in Appendices Two through Six addressing each respective segment, which identify key rail asset characteristics by milepost location.

Table 1
Net Liquidation Value Summary

Item	Value
Gross Liquidation Value	\$ 3,131,700
Liquidation Expenses	\$ (392,900)
Track Salvage Value	\$ 2,738,800
Administrative, Marketing and Transportation Expenses	\$ (992,000)
Net Liquidation Value	\$ 1,747,000

Values may not appear to add due to rounding

Methodology to Determine NLV

NLV was determined utilizing and adhering to the methodology employed by the Surface Transportation Board (STB), as manifest in decisions made by its Commissioners involving abandonments and other, related issues involving the prescribed use of NLV. RLBA arrived at this NLV through application of a multiple step process, the building blocks of which are summarized below:

- **Gross Liquidation Value (GLV)**; the market value of salvageable track assets (primary components with a value greater than related salvage expenses):
 - » Fixed Asset Ownership;
 - » Fixed Asset Inventory;
 - » Inventory Adjustment for Wear and Recovery Reductions and



- » Application of Market Value Unit Prices;
- **Liquidation Expenses**; the expense incurred to remove salvageable track assets:
 - » Removal Expenses and
 - » Restoration Expenses
- **Track Salvage Value (TSV)**; that value remaining after deductions of Liquidation Expenses due to removal and restoration as necessary to render assets saleable and preparation of the corridor for non-rail use;
- **Administrative, Marketing and Transportation Expenses**; the additional expense beyond the physical removal of the salvageable track assets associated with the liquidation process, as well as a profit margin for the liquidator and
- **Net Liquidation Value (NLV)**; that value remaining after deductions of administration/market-ing expense and conduct of the sales process such as transportation of materials.

Gross Liquidation Value

GLV in the context of this analysis was defined as current retail market value (with the exception of ties, which would be wholesaled) of all fixed assets as if they were available for immediate sale.

Signals and communications facilities, highway crossing signals, bridges, culverts and ballast, as will be explained later, yield no positive NLV value because of high removal costs.

Fixed Asset Ownership

In performing this track-related NLV evaluation, RLBA assumed that Snohomish County owns all the rail assets in fee simple including all yard, siding and industry spur tracks.

Fixed Asset Inventory

To assess the physical condition of the track assets, the valuation was based on a field inspection. Data concerning track condition and inventory obtained during that field inspection was used to inform the development of this NLV report. The track assets considered as part of this valuation include:

- Steel;
 - » Rail;
 - » Other Track Material and
 - » Turnouts;
- Ties and
- Other Track Assets.

Steel

The most significant marketable materials reflected in this valuation were steel components, found in the rail, other track materials and turnouts. Steel was assumed to be sold for railroad reuse or as steel mill scrap, depending upon condition.

Rail

Generally, rail in the main track designated as “fit” or “relay” can be reused in other railroad applications, if it weighs at least 85 pounds per yard or greater. Rail may have a functional use and life with wear up to and exceeding ½ inch vertical or horizontal head wear but is not generally considered worth installing again into a relay, (cascading) position if it exhibits more than 1/4 inch wear. Relay rail is classified into one of the following three categories: Fit #1, which includes all rail with less than 1/8 of an inch head wear, Fit #2, rail with less than 3/16 of an inch head wear and Fit #3, rail with less than 1/4 inch in head wear. The retail price of Fit #1 is set at a premium relative to Fit #2 and #3, respectively. If not suitable for rail relay, the next highest value application is reroll, where rail is rolled into new, non-rail products. Rail not suitable for reroll because of excessive side head wear, excessive metal flow, holes mid-rail, short length or attached asphalt or concrete is suitable only as scrap. Reroll rail generally brings higher dealer prices than scrap subject to market demands by the US electric steel mills. Scrap is divided into two categories: rail and other track material (OTM) such as joint bars, tie plates, rail anchors, nuts, bolts, washers and spikes. Table 2 displays the values assigned to each rail and OTM classification.

Other Track Material

The majority of double shoulder tie plates were classified as relay, even if the rail they supported was classified as scrap, because they would be matched with other relay rail featuring less desirable tie plates. All single shoulder tie plates were valued as scrap due to low market demand. If rail reuse as relay were warranted, joint bars and rail anchors were assumed reused whereas if rail were assumed scrapped or rerolled, the joint bars and rail anchors were assumed to be scrapped. Remaining OTM such as spikes, bolts and washers were valued as scrap.

Turnouts

Turnout values are typically determined through two characteristics: rail weight and frog size. Turnouts are classified as either “heavy” or “light,” with heavy turnouts having a rail weight of greater than or equal to 112 pounds per yard and light turnouts having a rail weight of less than 112 pounds per yard. All switches on the rail lines were determined to be size 9 or 11 turnouts with rail-bound manganese (RBM) or solid manganese frogs. The unit prices only reflect the material, not the cost of installation.

Ties

Because tie installation costs often approach the material costs, only recently installed ties are suitable for rail reuse. The cost to sort, handle, transport and inventory ties is high and, in comparison with the wholesale prices they command, generally yield only a low net salvage value. Overall tie condition on the inspected Snohomish County track was poor, with only 10% of ties classified as relay condition.

Other Track Assets

No net salvage value was assigned to signals and communications facilities, highway crossing signage and signals, bridges, culverts or ballast on the line in the calculation of the NLV. Reuse of signals by even a short line railroad is unlikely; typically, no inventory is kept on-hand and new replacements are ordered from standard suppliers and immediately installed. Marketing costs to inform railroads of second-hand availability and handling costs likely would exceed the amount that could be recovered through sale. Signal material scrap value would not exceed salvage costs. Likewise, there is no ready market in which to sell used, highway crossing signals and so they are not included in NLV calculations. Bridge, culvert and ballast removal costs and proceeds traditionally approximate each other, typically have no net effect on



NLV and so are omitted from NLV calculations.

Inventory Adjustment Reflection of Wear and Recovery Reductions

Due to material age, condition and the economics of expedited removal procedures, RLBA determined that not all railroad assets in the existing right-of-way would be recovered. RLBA typically assumes the liquidation of all rail lines to yield the following recovery rates, based on the theoretical weight of new rail:

- 97 percent of fit rail;
- 97 percent of scrap and reroll rail;
- 97 percent of tie plates on fit rail;
- 95 percent of tie plates on scrapped rail;
- 97 percent of joint bars on fit rail;
- 95 percent of joint bars on scrapped rail;
- 97 percent of turnout material;
- 80 percent of fit rail anchors and
- 80 percent of rail anchors, bolts, spikes, washers and other scrap materials.

The recovery rate assumption applied to relay, reroll and scrap rail reflects a three percent reduction applied to gross rail weight as an adjustment recognizing average rail wear. Five percent of scrap OTM gross weight was judged likely to be lost as a result of the removal process. In addition, twenty percent of anchors, spikes, bolts, washers and other materials were estimated as rusted or lost during salvage operations, leaving only eighty percent to be salvaged as scrap.

Application of Market Value Unit Prices

The GLV and NLV estimates were based on the application of actual unit market prices as of August 25, 2023, as supplied by active market participants who confidentially provide current pricing information to RLBA and is displayed in Table 2.



Table 2
Unit Market Prices

Steel (Rail)		Net Ton	Steel (OTM)		Component
CWR, Fit #2	115	\$ 770.00	Scrap OTM (Gross Ton)		\$ 317.00
CWR, Fit #1	112	\$ 820.00	Tie Plates 8 x 13 DS		\$ 9.25
CWR, Fit #2	112	\$ 770.00	Tie Plates 8 x 11 DS		\$ 8.30
CWR, Fit #3	112	\$ 700.00	Tie Plates 8 x 10 DS		\$ 8.60
Jointed, Fit #1	112	\$ 770.00	Tie Plates 8 x 10 SS		\$ 4.60
Jointed, Fit #2	112	\$ 720.00	Joint Bars 112		\$ 75.55
Jointed, Fit #3	112	\$ 650.00	Joint Bars 110		\$ 75.55
Jointed, Fit #3	110	\$ 430.00	Joint Bars 100		\$ 43.45
Jointed, Fit #2	100	\$ 720.00	Anchors (welded), Fit		\$ 1.30
Jointed, Fit #3	100	\$ 650.00	Anchors (jointed), Fit		\$ 0.95
Rail Reroll (Gross Ton)		\$ 364.55			
Rail Scrap (Gross Ton)		\$ 317.00			
Turnouts		Frog Size	Ties		Component
Heavy	9	\$ 13,000.00	Relay		\$ 38.00
Heavy	11	\$ 15,500.00	Landscape		\$ 15.00
Light	9	\$ 3,000.00	Scrap		-
Transportation			Rate/Railcar		
			Snohomish, WA to Chicago, IL	\$	6,407.49

Liquidation Expenses

Two fundamental assumptions were employed in development of expenses that were netted against gross liquidation values:

- costs associated with removal, sorting and transporting railroad materials reflected a deliberate and efficient liquidation and
- restoration expenses were assumed to be required in connection with highways, including coordination with local governments.

Removal Expenses

The cost of taking up track, including disassembly, sorting, stacking and loading of materials for shipment and disposing of ties was estimated at \$25,500 per mile where rail was classified as relay and \$20,400 per mile where rail was classified as reroll or scrap. Turnout removal was estimated at \$1,300 per fit turnout and \$600 per scrap turnout.

All tracks in roadways and crossing protection devices must be removed and pavement restored as a condition of service termination. The removal of track materials from pavement and restoration of pavement was estimated at \$5,100 per improved crossing and \$400 per unimproved crossing. Removal of crossing protection devices was estimated to equate to salvage value.



RLBA assumed that the cost to remove bridge superstructures would approximate salvage proceeds, resulting in no impact on NLV. While removal expense likely could exceed salvage proceeds, because some trestles are constructed of timber and may be in environmentally sensitive areas, it is not unusual for bridges and culverts to be left in place in the event a line is converted to a trail. Such a disposition would yield the same NLV as that assumed in the estimate. Supporting and sub-structures were assumed to be allowed to remain in place, thereby generating neither proceeds nor expenses.

Restoration Expenses

As a condition of service termination and non-rail reuse of the real property, governments frequently require correction of some existing conditions that might cause the public sector to incur future expense. Such regulations affect the subject NLV determination in three principal asset categories: 1) bridges and culverts; 2) grade crossings and 3) structures.

Track Salvage Value

Track salvage value is equal to gross liquidation value less liquidation expense.

Administrative, Marketing and Transportation Expenses

RLBA's standard methodology to determine cost to administer liquidation and market steel assets so as to achieve retail prices arrived at an estimation of fifteen percent of retail GLV (excluding transportation) regarding relay steel materials and five percent of GLV regarding scrap, reroll and non-steel materials. This methodology reflects the assumption that liquidation is either performed by the railroad itself, which presumably has limited liquidation experience, or by a hired, third party at a premium. Additionally, ten percent of TSV was deducted to account for the profit margin the railroad or third party would yield from liquidating the line. Transportation of reroll and scrap steel materials was assumed to be shipped by rail to Chicago, IL to maximize income with carload transportation costs reflecting same. Relay materials were estimated to be shipped to Chicago by rail to obtain maximum, net market prices.

Net Liquidation Value

NLV is the remainder after liquidation expenses were deducted from GLV. This is a reasonable expectation of what a seller (acting as its own broker) could receive were the line liquidated in August 2023.

Railroad Rail Market

The predominant component of railroad track asset value is the rail itself. The rail market consists of four primary products: new rail and the three, previously described grades of used rail: relay, reroll and scrap. Since the Snohomish County line is entirely comprised of second-hand rail, the discussion which follows is limited to the used rail markets. The NLV depends not only on the wear experienced on the subject rail but also on the situation in those markets.

Relay Rail

Rail replaced because of wear or defects on a busy or fast main track is eminently suitable to install on slower speed or lighter traffic lines. At the slow speeds operated in yards, few broken rails result in derail-

ments. In turn, welded replacement rail installed on secondary lines is superior to older rail still in use in some yards. Relay rail tonnages installed consistently exceed new rail tonnages because rail removed from a main line and installed on a branch line frequently generates an additional rail cascade to yard tracks. At each step, however, a portion of the rail is scrapped, usually resulting in short lengths of rail (from cuts made at road crossings and switches) or rail with excessive curve wear.

Through the cascading process, relay rail is generated by installing new rail (or other relay rail). In addition, some liquidated rail lines generate relay rail, though abandonment rail is frequently light, worn sections which are scrapped. While most relay material generated by a railroad is used on its own lines, there is a very active commercial relay market; multiple brokers supply material to regional and short line railroads and shipper-owned spurs, which neither require nor can justify the cost of new rail.

At lower levels of remaining useful life, rail becomes unattractive to sell in the relay market because the expenses of marketing, transportation and installation of rail on a regional or short line railroad would constitute an excessive share of total value.

Most rail relay programs include welding the rail before installation. Welding significantly reduces maintenance expenses incurred in the joint area associated with surfacing and bolt tightening. In addition, by removing the location of greatest rail wear, rail life is extended.

Reroll and Scrap Rail

Rail is a premium scrap grade because it is hard steel with known chemistry. While the scrap steel market includes many grades, used rail enters the scrap market as reroll or as charging material (heavy melting scrap) to be melted in furnaces and made into other steel products. Reroll is the designation attached to clean lengths of rail that can be rerolled into new products (construction rebar, fence posts, etc.). Scrap material is required in charging both integrated mills and in mini-mill electric furnaces. The mini-mill demand for scrap is expected to remain strong. While most mills will accommodate rails up to five feet in length, some buyers prefer shorter lengths of two or three feet.

User Categories

The primary categories of rail users are Class I (large), regional, short line railroads and industrial plants with rail sidings and/or yards. Class I railroads primarily purchase new rail and generate relay rail internally with light weight rail sold as scrap.

Use of relay rail by weight depends on specific railroad practice but, in general, on Class I (major) railroads, 112 pounds per yard and heavier will be reinstalled on secondary main lines if within wear limits, otherwise it will be installed in yard tracks. Good relay rail is required in yard turnouts. Rail between 100 and 112 pounds per yard is suitable in yard and industry tracks, though if generated in abundance in any one year, it may be sold into the second-hand market. Rail sections less than 100 pounds per yard are generally scrapped when taken up by Class I railroads.

Regional railroads are in need of second-hand rail and demand for repair rail has propelled second-hand prices on medium and heavy rail to a high value proportionate to prices of new rail with respect to remaining life as indicated by rail wear. This anomaly results because at typical regional railroad annual traffic levels of three to five million gross tons (MGT), half-worn rail may last another 50 - 80 years and



so is a relative bargain compared with new rail.

From the distinct economic perspective of regional railroads, by contrast with Class I railroads, paying one-half to three-quarters the price of new rail for half-worn rail can provide savings because replacement expenditures are years away. Rail weighing 115 pounds per yard or greater is preferred as replacement. Rail designated 132RE or greater (RE designation representing rail that adheres to AREMA specifications) would be considered if the costs, including shipping and other track materials, were the same or less than a 115RE section of rail. Similar economics drive the decision of Class I railroads to cascade worn rail, with little in-place economic life to another line on the system with lower traffic density rather than continuing to wear the rail down to scrap condition at its original location.

Short line railroads use any rail from new 136RE to second-hand 85 pounds per yard rail, depending on traffic volume and financial strength. Generally, 100 pounds per yard rail or heavier is preferred but some lines still install less than 100-pound rail (to replace even lighter weight installations). If predominant traffic is carried in 100-ton cars, 100 pounds per yard is a minimum standard although some western railroads in dryer climates, and hence better subgrade conditions, use 90 pounds per yard section. (The demand for relay quality 90 and 100 pounds per yard rail is still there but appears to be more regionalized, resulting in decreasing value due to the shift of the railroad industry toward being able to handle even greater axle loads.) Only a few short lines, generally those owned by the primary company they serve, can finance new rail purchases.

Industrial users can use any weight rail but prefer 100 pounds per yard or heavier section. A nearly universal specification by civil engineering firms of 115RE rail (instead of 115RE or heavier) on new side-track construction has driven the relay price per ton of that rail section higher than most other sections. The high volume of 115RE rail installed in mainline tracks during the 1950's and 1960's followed by a shift to heavier 119, 132 and 136RE rail has led to a scarcity of available 115RE repair rail. During the last few years, the relative bargain of 119 and 132RE rail has been recognized and those prices also have risen to match that of 115RE at least on a lineal foot basis.

Qualifications to Estimate

The findings of this cost estimate are subject to several qualifications and limiting conditions which are stated as follows:

It is assumed that all rail valued was manufactured according to AREMA and ASCE recommended practices and that the rail assets are in full compliance with all FRA standards;

Further, RLBA assumes full compliance with all applicable Federal, state and local regulations and laws;

RLBA takes no responsibility for changes in market conditions which may occur after the date of valuation or for the inability of the rail owner to identify a qualified purchaser;

With regards to the valuation, RLBA has not conducted any title search or verification of legal ownership. RLBA has conducted this valuation under the assumption that the entire rail described herein is



owned by Snohomish County free and clear of any liens and encumbrances;

No employee or representative of RLBA will be required to give testimony or attend court or appear at any governmental hearing with reference to the subject rail material, unless prior arrangements have been made directly with RLBA;

RLBA takes no responsibility for changes in track structure under portions of the railroad that were covered by material obstructing physical inspection or areas not inspected;

RLBA has not conducted any environmental remediation investigation and as such has not factored in any environmental remediation costs that may result from actual liquidation of line.

Certification

I, Don Bagley, do hereby certify that to the best of my knowledge and belief:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and is my personal, unbiased, professional analyses, opinions and conclusions.

I have no specified or unspecified present or prospective interest in the properties that are the subject of this report and I have no personal interest or bias with respect to the parties involved.

My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result or the occurrence of a subsequent event.

I made a personal inspection of the property that is the subject of this report on June 7-9, 2023.

Submitted,

James D. Bagley



APPENDICES

AUGUST 25, 2023

Appendix One
Net Liquidation Value of Track Assets
Snohomish County Railroad
MP 26.38 to MP 38.25
June 7-9, 2023

	Unit	Unit Cost	Total	Grand Total
Gross Liquidation Value				
Relay Railroad Materials			\$ 2,539,700	
Steel Scrap and Reroll OTM			\$ 173,400	
Ties and Non-steel OTM			\$ 418,600	
Gross Liquidation Total				\$ 3,131,700
Removal Cost Expense				
Fit Rail & OTM Removal (miles)	12.64	\$ 25,500	\$ (322,300)	
Scrap/Reroll Rail & OTM Removal (miles)	0.62	\$ 20,400	\$ (12,600)	
Fit Turnout Removal (each)	7	\$ 1,300	\$ (9,100)	
Scrap Turnout Removal (each)	1	\$ 600	\$ (600)	
Removal Cost Total				\$ (344,600)
Restoration Cost Expense				
Crossing with Improvements (each)	9	\$ 5,100	\$ (45,900)	
Unimproved Crossing (each)	6	\$ 400	\$ (2,400)	
Restoration Cost Total				\$ (48,300)
Liquidation Expense				\$ (392,900)
Track Salvage Value				\$ 2,738,800
Administrative, Marketing and Transportation Expense				
Profit Margin - 10 percent of Track Salvage Value			\$ 273,900	
Relay Steel Materials - 15 percent			\$ 381,000	
Scrap, Reroll and Non-steel Materials - 5 percent			\$ 29,600	
Transportation			\$ 307,500	
Administrative, Marketing and Transportation Total				\$ 992,000
Net Liquidation Value				\$ 1,747,000

Notes: Dollar amounts are rounded to the nearest hundred; units to the nearest tenth. Values may not appear to add due to rounding.

Appendix Two
Gross Liquidation Value of Track Assets
Snohomish County Railroad
MP 26.38 to MP 38.25
June 7-9, 2023

Rail													
Miles		Description	Condition	Quantity per Mile	Unit	Total	Re-Useable			Scrap and Reroll			Grand Total (a + b)
Fit	Scrap						%	Unit Value	Value (a)	%	Unit Value	Value (b)	
0.58	115	CWR	Fit #2	202.4	Ton	117	97 %	\$ 770.00	\$ 87,700				\$ 87,700
1.45	112	CWR	Fit #1	197.1	Ton	286	97 %	\$ 820.00	\$ 227,300				\$ 227,300
1.31	112	CWR	Fit #2	197.1	Ton	258	97 %	\$ 770.00	\$ 192,900				\$ 192,900
0.35	112	CWR	Fit #3	197.1	Ton	69	97 %	\$ 700.00	\$ 46,800				\$ 46,800
0.15	112	Jointed	Fit #1	197.1	Ton	30	97 %	\$ 770.00	\$ 22,100				\$ 22,100
6.16	112	Jointed	Fit #2	197.1	Ton	1,214	97 %	\$ 720.00	\$ 848,000				\$ 848,000
0.55	112	Jointed	Fit #3	197.1	Ton	108	97 %	\$ 650.00	\$ 68,300				\$ 68,300
0.20	110	Jointed	Fit #3	193.6	Ton	39	97 %	\$ 430.00	\$ 16,200				\$ 16,200
1.23	100	Jointed	Fit #2	176.0	Ton	216	97 %	\$ 720.00	\$ 151,200				\$ 151,200
0.66	100	Jointed	Fit #3	176.0	Ton	116	97 %	\$ 650.00	\$ 73,200				\$ 73,200
	0.31	90	Jointed	Reroll	158.4	Ton	49			97 %	\$ 364.55	\$ 17,400	\$ 17,400
	0.31	90	Jointed	Scrap	158.4	Ton	49			97 %	\$ 317.00	\$ 15,100	\$ 15,100
12.64	0.62	Rail Total							\$ 1,733,700		\$ 32,500		\$ 1,766,200
Other Track Material													
Miles		Description	Condition	Unit	Quantity per Mile	Total	Re-Useable			Scrap			Grand Total (a + b)
Fit	Scrap						%	Unit Value	Value (a)	%	Unit Value	Value (b)	
0.38		Tie Plates 8 x 13 DS	Relay	Each	6,336	2,408	97 %	\$ 9.25	\$ 21,600				\$ 21,600
0.25		Tie Plates 8 x 11 DS	Relay	Each	6,336	1,584	97 %	\$ 8.30	\$ 12,800				\$ 12,800
8.68		Tie Plates 8 x 10 DS	Relay	Each	6,336	54,996	97 %	\$ 8.60	\$ 458,800				\$ 458,800
0.35		Tie Plates 8 x 10 SS	Relay	Each	6,336	2,218	97 %	\$ 4.60	\$ 9,900				\$ 9,900
	1.34	Tie Plates 8 x 10 DS	Scrap	Ton	106.2	142				95 %	\$ 317.00	\$ 42,900	\$ 42,900
	1.10	Tie Plates 7.5 x 10 DS	Scrap	Ton	106.2	117				95 %	\$ 317.00	\$ 35,200	\$ 35,200
	0.54	Tie Plates 8 x 10 SS	Scrap	Ton	106.2	57				95 %	\$ 317.00	\$ 17,300	\$ 17,300
	0.31	Tie Plates 7 x 9 SS	Scrap	Ton	106.2	33				95 %	\$ 317.00	\$ 9,900	\$ 9,900
	0.31	Tie Plates 6 x 8 SS	Scrap	Ton	106.2	33				95 %	\$ 317.00	\$ 9,900	\$ 9,900
6.86		Joint Bar 112	Relay	Pair	271	1,857	97 %	\$ 75.55	\$ 136,100				\$ 136,100

Appendix Two
Gross Liquidation Value of Track Assets
Snohomish County Railroad
MP 26.38 to MP 38.25
June 7-9, 2023

0.20	Joint Bar	110	Relay	Pair	271	54	97 %	\$	75.55	\$	4,000				\$	4,000		
1.89	Joint Bar	100	Relay	Pair	271	512	97 %	\$	43.45	\$	21,600				\$	21,600		
0.62	Joint Bar	90	Scrap	Ton	9.5	6						95 %	\$	317.00	\$	1,800	\$	1,800
3.69	Rail Anchors Welded		Relay	Each	6,498	23,979	80 %	\$	1.30	\$	24,900				\$	24,900		
8.95	Rail Anchors Jointed		Relay	Each	2,708	24,234	80 %	\$	0.95	\$	18,400				\$	18,400		
0.62	Rail Anchors		Scrap	Ton	3.7	2						80 %	\$	317.00	\$	600	\$	600
13.26	Spikes		Scrap	Ton	5.1	67						80 %	\$	317.00	\$	17,000	\$	17,000
13.26	Bolts & Washers		Scrap	Ton	1.4	19						80 %	\$	317.00	\$	4,800	\$	4,800

Other Track Material Total											\$	708,100	\$	139,400	\$	847,500
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Turnouts

Turnouts							Re-Useable				Scrap			Grand Total (a + b)
Fit	Scrap	Weight	Frog Size	Condition	Unit	Quantity per Turnout	Total	%	Unit Value	Value (a)	%	Unit Value	Value (b)	
3		Heavy	9	Relay	Each		3	97 %	\$13,000.00	\$ 37,800				\$ 37,800
4		Heavy	11	Relay	Each		4	97 %	\$15,500.00	\$ 60,100				\$ 60,100
	1	Light	9	Scrap	Ton	5	5				97 %	\$ 317.00	\$ 1,500	\$ 1,500
7	1	Turnouts Total									\$ 97,900		\$ 1,500	\$ 99,400
Steel OTM Total										\$ 806,000		\$ 140,900	\$ 946,900	

Non-Steel Material

Miles						Re-Useable					Scrap			Grand Total (a + b)
Fit	Scrap	Description	Condition	Unit	Quantity per Mile	Total	%	Unit Value	Value (a)	%	Unit Value	Value (b)		
13.26	Ties	Relay	Relay	Each	3,168	42,008	10 %	\$ 38.00	\$ 164,100				\$ 164,100	
13.26	Ties	Landscape	Relay	Each	3,168	42,008	40 %	\$ 15.00	\$ 254,500				\$ 254,500	
	13.26	Ties	Scrap	Scrap	Each	3,168	42,008			49 %	\$ -	\$ -	\$ -	
Non-Steel OTM Total									\$ 418,600		\$ -		\$ 418,600	

Grand Total											\$	2,958,300	\$	173,400	\$	3,131,700
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Appendix Two
Gross Liquidation Value of Track Assets
Snohomish County Railroad
MP 26.38 to MP 38.25
June 7-9, 2023

Notes: Dollar amounts are rounded to the nearest hundred; tons to the nearest tenth; units to the nearest integer. Values may not appear to add due to rounding.
Source: Vendors, and RLBA estimates.

Appendix Three
Summary of Rail Evaluated
Snohomish County Railroad
MP 26.38 to MP 38.25
June 7-9, 2023

Milepost		Rail				Miles
From	To	Section	Rolled	Type	Control Cooled	
Main Track						
26.37	26.95	115RE	1965	CWR	Yes	0.58
26.95	29.10	112RE	1941	JT	No	2.15
29.10	29.30	110RE	1926	JT	No	0.20
29.30	30.31	112RE	1944	JT	No	1.01
30.31	30.60	100RE	1937	JT	No	0.29
30.60	30.85	112RE	1946	CWR	No	0.25
30.85	31.85	112RE	1937	JT	No	1.00
31.85	32.20	100RE	?	JT	No	0.35
32.20	32.40	112RE	?	CWR	No	0.20
32.40	32.80	112RE	1939	JT	No	0.40
32.80	32.95	112RE	1942	CWR	No	0.15
32.95	33.60	112RE	1939	JT	No	0.65
33.60	33.85	100RE	?	JT	No	0.25
33.85	34.60	112RE	1946	CWR	No	0.75
34.60	34.95	100RE	1930	JT	No	0.35
34.95	35.20	112RE	?	JT	No	0.25
35.20	35.50	100RE	1930	JT	No	0.30
35.50	35.80	112RE	?	CWR	No	0.30
35.80	36.10	112RE	1939	JT	No	0.30
36.10	36.80	112RE	?	CWR	No	0.70
36.80	37.90	112RE	?	JT	No	1.10
37.90	38.25	100RE	?	JT	No	0.35
Main Track Total						11.88
Yard Tracks & Sidings						
29.57	30.19	90RB	?	JT	No	0.62
0.05	0.43	112RE	?	CWR	No	0.38
37.62	38.00	112RE	?	CWR	No	0.38
Yard Track & Siding Total						1.38
Track Miles Grand Total						13.26

Source: RLBA On-site inspection

Appendix Four
Summary of Turnouts
Snohomish County Railroad
MP 26.38 to MP 38.25
June 7-9, 2023

Location	Turnout	Frog		Condition		Switch Points			Switch Stand	
MP	Weight	Type	Size (#)	Relay	Scrap	LH	RH	Lead	Manual	Power
26.69	115	RBM	9	X		X			X	
29.57	115	SM	11	X		X			X	
30.19	115	SM	11	X			X		X	
30.29	115	SM	9	X		X			X	
37.61	115	SM	11	X		X			X	
37.62	115	RBM	11	X			X		X	
29.67	115	SM	9	X			X		X	
30.04	90	SM	9		X		X		X	

Turnouts

Heavy	9	3	0
Heavy	11	4	0
Light	9	0	1
Grand Total		7	1

Note: "Heavy" turnouts are classified as having a rail weight of greater than or equal to 112 pounds per yard, while "Light" turnouts have a rail weight of less than or equal to 110 pounds per yard.

Source: RLBA on-site inspection.

Appendix Five
Summary of Tie Condition
Snohomish County Railroad
MP 26.38 to MP 38.25
June 7-9, 2023
 (Sample Blocks of 100)

Location		Condition	
MP	Relay	Landscape	Scrap
26.45	10	30	60
26.77	8	11	81
26.95	0	48	52
27.40	30	34	36
28.25	15	42	43
29.25	26	45	29
29.38	27	14	59
29.90	1	42	57
30.50	6	50	44
31.70	2	86	12
32.45	6	43	51
32.80	7	65	28
33.40	32	31	37
34.45	2	51	47
34.85	0	30	70
36.70	6	31	63
37.41	7	45	48
37.75	0	29	71
Average Total (%)	10	40	49
With tie spacing of	20	inches	
Inches on center equates to :	3,168	ties per mile	
Estimated average of	326	Relay ties per mile	
	1,280	Landscape ties per mile	
	1,563	Scrap ties per mile	

Notes: Units are rounded to the nearest integer.

Source: RLBA On-site Inspection.

Appendix Six
Summary of Rail Class By Mileage
Snohomish County Railroad
MP 26.38 to MP 38.25
June 7-9, 2023

Location				Condition/Type of Rail (%)										
	MP	MP	Miles	Weight	CWR Fit	CWR Fit	CWR Fit	Jointed	Jointed	Jointed	CWR	CWR	Jointed	Jointed
					#1	#2	#3	Fit #1	Fit #2	Fit #3	Reroll	Scrap	Reroll	Scrap
Main Line Miles														
115RE	26.37	26.95	0.58	115	100%									
112RE	26.95	29.10	2.15	112	100%									
110RE	29.10	29.30	0.20	110	100%									
112RE	29.30	30.31	1.01	112	100%									
100RE	30.31	30.60	0.29	100	100%									
112RE	30.60	30.85	0.25	112	100%									
112RE	30.85	31.85	1.00	112	100%									
100RE	31.85	32.20	0.35	100	60% 40%									
112RE	32.20	32.40	0.20	112	100%									
112RE	32.40	32.80	0.40	112	100%									
112RE	32.80	32.95	0.15	112	100%									
112RE	32.95	33.60	0.65	112	100%									
100RE	33.60	33.85	0.25	100	60% 40%									
112RE	33.85	34.60	0.75	112	100%									
100RE	34.60	34.95	0.35	100	40% 60%									
112RE	34.95	35.20	0.25	112	100%									
100RE	35.20	35.50	0.30	100	100%									
112RE	35.50	35.80	0.30	112	100%									
112RE	35.80	36.10	0.30	112	50% 50%									
112RE	36.10	36.80	0.70	112	50% 50%									
112RE	36.80	37.90	1.10	112	50% 50%									
100RE	37.90	38.25	0.35	100	40% 60%									

Appendix Six
Summary of Rail Class By Mileage
Snohomish County Railroad
MP 26.38 to MP 38.25
June 7-9, 2023

Location				Condition/Type of Rail (%)									
MP	MP	Miles	Weight	CWR Fit	CWR Fit	CWR Fit	Jointed	Jointed	Jointed	CWR	CWR	Jointed	Jointed
				#1	#2	#3	Fit #1	Fit #2	Fit #3	Reroll	Scrap	Reroll	Scrap
	Total	11.88											
Sidings & Yard Track Miles													
90RB	29.57	30.19	0.62	90								50%	50%
112RE	0.05	0.43	0.38	112		100%							
112RE	37.62	38.00	0.38	112		100%							
	Total	1.38											
Grand Total Mileage		13.26											

Source: RLBA On-site Inspection

Appendix Seven
Summary of Shipment Volumes
Snohomish County Railroad
MP 26.38 to MP 38.25
June 7-9, 2023

Rail

Material			Railcars			Total
Conditon	Type	Tons	Tons per	Number	Rate	
Fit #1	CWR	286	93	4	\$ 6,407.49	\$ 25,630
Fit #2	CWR	376	93	5	\$ 6,407.49	\$ 32,037
Fit #3	CWR	69	93	1	\$ 6,407.49	\$ 6,407
Fit #1	Jointed	30	93	1	\$ 6,407.49	\$ 6,407
Fit #2	Jointed	1,431	93	16	\$ 6,407.49	\$ 102,520
Fit #3	Jointed	263	93	3	\$ 6,407.49	\$ 19,222
Reroll	Jointed	49	93	1	\$ 6,407.49	\$ 6,407
Scrap	Rail	49	93	1	\$ 6,407.49	\$ 6,407
Rail Total		2,552		28		\$ 179,400

OTM

Material			Railcars			Total
Conditon	Type	Tons	Tons per	Number	Rate	
Relay	Tie Plate	995	93	11	\$ 6,407.49	\$ 70,482
Relay	Joint Bars	89	93	1	\$ 6,407.49	\$ 6,407
Relay	Rail Anchors Welded	11	93	1	\$ 6,407.49	\$ 6,407
Relay	Rail Anchors Jointed	27	93	1	\$ 6,407.49	\$ 6,407
Scrap	OTM	574	93	7	\$ 6,407.49	\$ 44,852
OTM Total		1,697		19		\$ 121,700

Turnouts

Material			Railcars			Total
Conditon	Type	Tons	Tons per	Number	Rate	
Relay	Heavy	56	93	1	\$ 6,407.49	\$ 6,407
Scrap	Turnouts	5	93	1	\$ 6,407.49	\$ 6,407
Turnouts Total		61		1		\$ 6,400

Grand Total		4,310		48		\$ 307,500
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Source: RLBA Estimates

Appendix Eight
Track Material Unit Prices
Snohomish County Railroad
MP 26.38 to MP 38.25
June 7-9, 2023

Steel (Rail)

Type	Weight	Unit Prices per		Comments
		Component	Net Ton	
CWR, Fit #2	115		\$ 770.00	
CWR, Fit #1	112		\$ 820.00	
CWR, Fit #2	112		\$ 770.00	
CWR, Fit #3	112		\$ 700.00	
Jointed, Fit #1	112		\$ 770.00	
Jointed, Fit #2	112		\$ 720.00	
Jointed, Fit #3	112		\$ 650.00	
Jointed, Fit #3	110		\$ 430.00	
Jointed, Fit #2	100		\$ 720.00	
Jointed, Fit #3	100		\$ 650.00	
Rail Reroll (Gross Ton)			\$ 364.55	
Rail Scrap (Gross Ton)			\$ 317.00	

Steel (OTM)

		Component	Gross Ton	Comments
Scrap OTM			\$ 317.00	
Tie Plates	8 x 13 DS	\$ 9.25		
Tie Plates	8 x 11 DS	\$ 8.30		
Tie Plates	8 x 10 DS	\$ 8.60		
Tie Plates	8 x 10 SS	\$ 4.60		
Joint Bars	112	\$ 75.55		
Joint Bars	110	\$ 75.55		
Joint Bars	100	\$ 43.45		
Anchors (welded), Fit		\$ 1.30		
Anchors (jointed), Fit		\$ 0.95		

Timber (Ties)

		Component	Gross Ton	Comments
Relay		\$ 38.00		
Landscape		\$ 15.00		
Scrap		\$ -		

Turnouts

Type	Frog Size	Component	Gross Ton	Comments
Heavy	9	\$ 13,000.00		

Appendix Eight
Track Material Unit Prices
Snohomish County Railroad
MP 26.38 to MP 38.25
June 7-9, 2023

Heavy	11	\$	15,500.00
Light	9	\$	3,000.00

Transportation

Origin	Destination	Railcar		Comments
		Capacity (Ton)	Rate	
Snohomish, WA	Chicago, IL	93	\$ 6,407.49	

Source: Vendors, American Metal Markets & RLBA Estimates

Attachment 11

Statement of Willingness (Trails Act Invocation)

On behalf of Snohomish County

Before the Surface Transportation Board

Snohomish County –)
Adverse Abandonment –) AB-1331
In Snohomish County, Wash.)

STATEMENT OF WILLINGNESS TO ASSUME
FINANCIAL RESPONSIBILITY

In order to establish interim trail use and railbanking under 16 U.S.C. 1247(d) and 49 C.F.R. 1152.29, Snohomish County ("County" or "Interim Trail User") is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way (a freight rail easement) owned by GNP RLY, Inc. and operated by same. The property, known as the "freight segment," extends from Milepost ("MP") 26.38 at the King/Snohomish County line to MP 38.25 at City of Snohomish, a distance of approximately 11.9 miles, in Snohomish County, Washington. The right-of-way is part of a line of railroad proposed for abandonment in STB docket AB-3131.

A map of the property depicting the right-of-way is attached.

The County acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad on the same date it is being served on the Board.



10/9/2023

For filing: on or about Oct. 17, 2023

Dave Somers

date

Snohomish County Executive

3000 Rockefeller Ave.

Everett, WA 98201

(425) 388-3050

Dave.Somers@co.snohomish.wa.us

Cc:

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

Rail Counsel for Snohomish County

James H.M. Savage, Esq.

27 Bourne Circle

Hamburg, NJ 07419

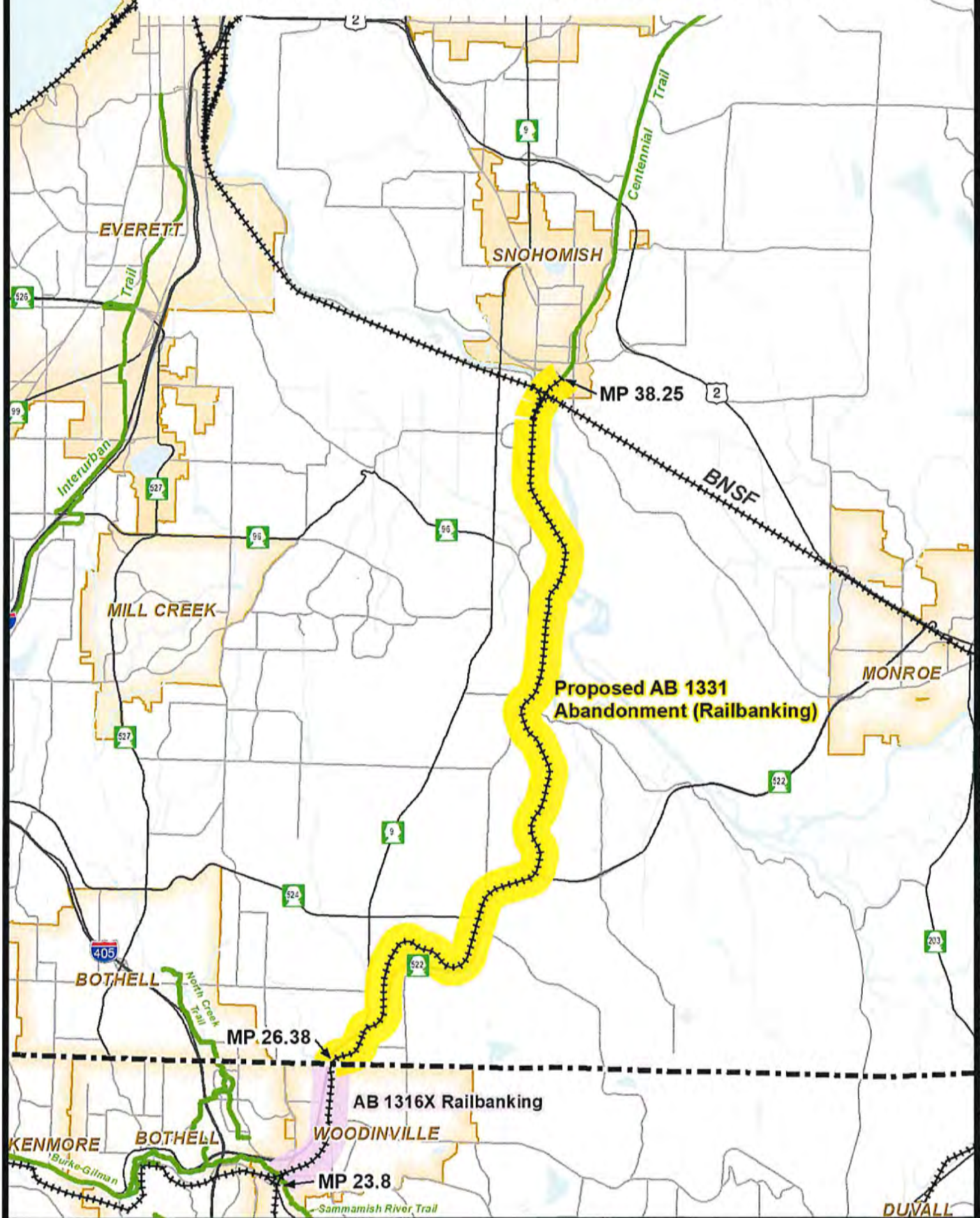
(908) 361-7097

jsavagelaw@aim.com

For GNP RLY, Inc.

All with attachment

AB 1331 Map - MP 26.38 to MP 38.25



Attachment 12

Letter, James H.M Savage (for GNP RLY, Inc.) to C. Brown (STB)

Consent to Negotiation of Trails Use Agreement

JAMES H. M. SAVAGE, ESQ.
27 BOURNE CIRCLE
HAMBURG, NJ 07419
jsavagelaw@aim.com

Admitted NJ and DC

Tel: (908) 361-7097

September 29, 2023

Ms. Cynthia T. Brown
Chief Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street S.W., Room 1034
Washington, D.C. 20023

BY ELECTRONIC FILING

Re: Docket AB 1331 Snohomish County, WA – Adverse Abandonment – GNP RLY, Inc.

Dear Ms. Brown:

Kindly accept this letter for filing on behalf of GNP RLY, Inc. (hereinafter “GNP”), owner of the freight railroad easement and operating license issued by the Board on February 13, 2009 in FD 35213 for the segment of rail line extending between MP 38.25 in the City of Snohomish and MP 26.38 at the Snohomish County/King County line, all in Snohomish County, WA.

GNP concurs that the relevant underlying deeds require implementation of railbanking and interim trail use for this line should the Board authorize abandonment and should Snohomish County so request. GNP not only consents to negotiate a railbanking agreement for its entire remaining rail line; namely, MP 38.25 in City of Snohomish to MP 26.38 at the Snohomish/King County boundary line, but also represents that a railbanking agreement has been reached, subject to this Board’s entry of an order authorizing railbanking.

GNP thanks the Board for its kind consideration in this matter.

Respectfully submitted,

James H. M. Savage

/s/ James H. M. Savage

[By electronic signature]
James H. M. Savage, Esq.
Attorney for GNP Rly, Inc.

Attachment 13

Approved Form of Federal Register Notice

Draft Federal Register Notice

STB Docket No. AB 1331

Snohomish County – Adverse Abandonment -- GNP RLY, Inc., in Snohomish County, Wash.

On October 17, 2023, Snohomish County (“Applicant”), a political subdivision of the State of Washington, filed an application under 49 U.S.C. 10903 asking the Surface Transportation Board (“Board”) to authorize the third-party, or “adverse,” abandonment of acquisition and operating authority held by GNP RLY, Inc. (“GNP”), over approximately 11.9 miles of rail line extending from Milepost 38.25 at City of Snohomish to MP 26.35 at the Snohomish County/King County line (hereinafter the “Line”). The Line is situated in Snohomish County, Washington, and traverses U.S. Postal Zip Codes 98296 and 98702.

The line may contain federally granted rights-of-way. Any documentation in Applicant’s possession will be made available promptly to those requesting it. The application can be viewed on the Board’s webpage, www.stb.gov, or a copy can be obtained from Applicant’s counsel, whose name and address appear below. The Applicant’s entire case for abandonment (case in chief) was filed with the application.

The interest of railroad employees, if there are any employees, will be protected by the conditions set forth in Oregon Short Line Railroad – Abandonment Portion

Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

In a decision served in this proceeding on May 23, 2023, the Board granted a petition filed by Applicant for exemptions from several statutory provisions and for waivers of certain Board regulations governing rail line abandonments. In particular, the Board has exempted this proceeding from the offer of financial assistance (“OFA”) requirements at 49 U.S.C. 10904 and waived its OFA regulations at 49 C.F.R. 1152.27.

Any interested person may file written comments concerning the proposed adverse abandonment or protests (including protestant’s entire opposition case) within 45 days after the application is filed. All interested persons should be aware that following any abandonment of rail service, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (49 C.F.R. 1152.28 of the Board’s rules) and any request for a trail use condition under 16 U.S.C. 1247(d) (49 C.F.R. 1152.29 of the Board’s rules) must be filed within 45 days after the application is filed. Persons who may oppose the adverse abandonment but who do not wish to participate fully in the process by appearing at any oral hearings or by submitting verified statements of witnesses, containing detailed evidence should file comments. Persons interested only in seeking public use or trail use conditions should also file comments.

Persons opposing the proposed abandonment that do wish to participate actively and fully in the process should file a protest.

In addition, a commenting party or a protestant may provide:

- (i) A request for a public use condition under 49 U.S.C. 10905;
- (ii) A statement pertaining to prospective use of the right-of-way for interim trail use and railbanking under 16 U.S.C. 1247(d) and 49 C.F.R. 1152.29; and
- (iii) Recommended provisions for the protection of the interests of employees.

Parties seeking information concerning filing of protests should refer to 49 C.F.R. 1152.25.

Written comments and protests, including all requests for public use and trail use conditions, must indicate the proceeding designation STB No. AB-1331 and should be filed with the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, 395 E Street, SW, Washington, DC 20423-0001, no later than 45 days after the date Applicant files its application. Interested persons may file a written comment or protest with the Board to become a party to this abandonment proceeding. A copy of each written comment or protest must be served on the representative of the Applicant (Charles H. Montange, Law Offices of Charles H. Montange, 426 NW 162nd St., Seattle, WA 98177, (206) 546-1936, email: c.montange@frontier.com). Every comment or protest shall be filed with

the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment proceeding. 49 C.F.R. 1104.12(a).

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Office of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Office of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Attachment 14

Verification

Verification

State of Washington ss.

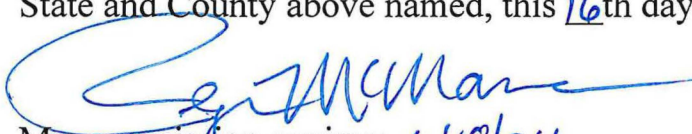
County of Snohomish

Tom Teigen makes oath and says that he is the Director of the Snohomish County Department of Conservation and Natural Resources of Snohomish County, applicant herein; that he has been authorized by the applicant to verify and file with the Surface Transportation Board the foregoing (adverse) application in STB AB-1331; that he has carefully examined all of the statements in the application as well as the exhibits attached thereto and made a part thereof; that he has knowledge of the facts and matters relied upon in the application; and that all representations set forth therein are true and correct to the best of his knowledge, information, and belief.

DATED this 16th day of October, 2023, in Everett, Washington


Tom Teigen

Subscribed and sworn to before me Tom Teigen in and for the State and County above named, this 16th day of October, 2023.


My commission expires: 6/18/24
Residing in Arlington, WA

