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SERVICE DATE – NOVEMBER 6, 2023

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1331]

Snohomish County—Adverse Abandonment—GNP RLY, Inc., in Snohomish County, Wash.

On October 17, 2023, Snohomish County (the County), a noncarrier, filed an application under 49 U.S.C. 10903 requesting that the Surface Transportation Board (the Board) authorize the third-party, or “adverse,” abandonment of an approximately 11.9-mile segment of a freight rail easement owned by GNP RLY, Inc. (GNP), and located between milepost 26.38 and milepost 38.25, in Snohomish County, Wash. (the Line or the Snohomish Segment of the Easement). The Line traverses U.S. Postal Service Zip Codes 98290, 98296, and 98072.

The County explains that in a series of transactions recorded on December 21, 2009, under the Board’s line of precedent in Maine, Department of Transportation—Acquisition & Operation Exemption—Maine Central Railroad, 8 I.C.C.2d 835 (1991), BNSF Railway Company sold the physical assets of a rail line between milepost 23.8 in Woodinville, Wash., and milepost 38.25 in Snohomish, Wash., to the Port of Seattle (the Port); GNP acquired a permanent freight rail easement for the entirety of that rail line (the Easement); and GNP entered into an operations and maintenance agreement with the Port. The County states that the Easement is subject to a covenant, binding on all successors, requiring the holder of the Easement, upon cessation of rail service, either to

seek voluntary abandonment authority and, upon request, to cooperate in railbanking the rail line pursuant to the National Trails System Act (Trails Act), 16 U.S.C. 1247(d), or to cooperate in an adverse abandonment proceeding and, upon request, railbanking of the rail line. According to the County, in 2015, it purchased the physical assets of the Snohomish Segment from the Port, and the City of Woodinville (Woodinville) purchased the physical assets of the segment of the rail line between milepost 23.8 and milepost 26.38 in Woodinville, Wash. (the Woodinville Segment).

The County notes that GNP was authorized to abandon the Woodinville Segment of the Easement in Docket No. AB 1316X, and GNP and Woodinville subsequently entered an interim trail use/railbanking agreement covering that segment. The County explains that it is now seeking adverse abandonment of the Snohomish Segment of the Easement so that segment can also be railbanked, as required by the covenant in the deed from BNSF to the Port creating the Easement and by a settlement agreement the County and GNP entered prior to the County filing its application. The County states that GNP supports and does not oppose the County's adverse abandonment application and agrees to cooperate with the County to pursue interim trail use/railbanking of the Line under the Trails Act.

In a decision served in this proceeding on May 23, 2023, the County was granted exemptions from several statutory provisions as well as waivers of certain Board regulations that the Board concluded were inapplicable and unneeded in connection with the County's anticipated application.

According to the County, the Line may contain federally granted rights of way. The County states that any documentation in its possession will be made available

promptly to those requesting it. The County's entire case in chief for adverse abandonment was filed with the application.

The interests of railroad 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).

Any interested person may file comments concerning the proposed adverse abandonment or protests (including protestant's entire opposition case) by December 1, 2023. Persons who may oppose the proposed adverse abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons opposing the proposed adverse abandonment who wish to participate actively and fully in the process should file a protest, observing the filing, service, and content requirements of 49 CFR 1152.25. The County's reply is due by December 18, 2023.

Any request for an interim trail use/railbanking condition under 16 U.S.C. 1247(d) and 49 CFR 1152.29 must be filed by December 1, 2023,¹ and should address whether the issuance of a certificate of interim trail use or abandonment in this case would be consistent with the grant of an adverse abandonment application.

All pleadings, referring to Docket No. AB 1331, should be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on the County's representative, Charles H. Montagne, 426 NW 162nd

¹ Filing fees for interim trail use/railbanking requests can be found at 49 CFR 1002.2(f)(27).

Street, Seattle, WA 98177. Except as otherwise set forth in 49 CFR part 1152, every document filed with the Board must be served on all parties to this adverse abandonment proceeding. 49 CFR 1104.12(a).

A Draft Environmental Assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Board's Office of Environmental Analysis (OEA) 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 Draft EA (or EIS) may contact OEA by phone at the number listed below. Draft EAs normally will be made available within 33 days of the filing of the application, and the deadline for submission of comments on the Draft EA will generally be within 30 days of its service. The comments received will be addressed in a Final EA (or EIS) and the Board's decision. A Supplemental Final EA (or EIS) may be issued where appropriate.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to OEA at (202) 245-0305. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

Board decisions and notices are available at www.stb.gov.

Decided: November 1, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.