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VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: STB Docket No. AB 1310X
Northwestern Pacific Railroad Company
-Discontinuance of Service Exemption-
In Marin, Napa, and Sonoma Counties, CA

Dear Ms. Brown:

On April 1, 2021, a letter from the Train Riders Association of California, (“TRAC”) was entered into the record requesting that the Board deny the Petition for Exempt Discontinuance submitted by the Northwestern Pacific Railroad Company (“NWPCo”).¹ NWPCo respectfully requests that the Board reject the TRAC Letter and the relief requested therein because TRAC raises no arguments germane to the line that is the subject of the NWPCo Petition or to the discontinuance requested therein.

The NWPCo Petition is a straightforward request under 49 U.S.C. § 10502 for authority to discontinue its operations over the line of railroad between approximately milepost NWP 89

¹ Herein after referred to as the “NWPCo Petition”

near Cloverdale and the Sonoma-Mendocino County Border and approximately milepost SP 63.4 at Lombard in Napa County, CA (the “Subject Line”). NWPCo currently leases the Subject Line from North Coast Railroad Authority (“NCRA”). As noted in the NWPCo Petition, upon the discontinuance of service by NWPCo, the freight service over the Subject Line will be provided by Sonoma-Marín Area Rail Transit District (“SMART”) which has been authorized to acquire NCRA’s interests in the Subject Line and to provide the freight service thereon.²

The TRAC Letter first criticizes and objects to SMART acquiring the right to provide freight service over the Subject Line. *TRAC Letter* at 1-4. That of course is not the subject of this proceeding or a basis for denying the discontinuance proposed by NWPCo.

The TRAC Letter then raises issues related to an out-of-service line segment north of the Subject Line and the “scheme by the State of California” (not NWPCo) to ignore shipper needs on that segment. *TRAC Letter* at 4. TRAC asserts that this scheme refutes the argument in NWPCo’s Petition that detailed scrutiny of the discontinuance is not necessary to carry out the rail transportation policy of 49 U.S.C. §10101. *TRAC Letter* at 4-6. TRAC asks the Board to deny the NWPCo proposed discontinuance because of what it asserts as “controversy over a lack of service on the Cloverdale to Willits segment of the line.” *Id.* TRAC further asks that the “Board direct NWPCo to revise its petition to address service for that segment.” *Id.*

TRAC does not provide any explanation as to how its request is relevant to the proposed discontinuance because the Cloverdale to Willits segment of line is not the subject of the

² See *Verified Notice of Exemption, Sonoma-Marín Area Rail Transit District – Acquisition and Operation Exemption – North Coast Railroad Authority*, STB Docket No. FD 36481 (filed Feb. 2, 2021), and STB decision (served February 18, 2021). SMART’s exemption became effective March 4, 2021.

NWPCo Petition. Nor does TRAC explain how regulation of the discontinuance will have any effect on the Cloverdale to Willits segment because that segment will remain out of service as it has been since FRA Emergency Order No. 21 was issued in 1998, and it will remain connected to the Subject Line (and the national rail network) which will continue to operate following the NWPCo discontinuance. Finally, TRAC does not explain why it could not express these complaints in an abandonment proceeding if and when the Cloverdale to Willits segment were to be subject to an abandonment proceeding before the Board.

TRAC cites to Board case law including the recent Colorado, Midland & Pacific Railway Company Board decision³ that provides that the use of a class exemption is not appropriate where there is substantial controversy. However, the TRAC citation is inapposite. First, the NWPCo Petition was not filed as a class exemption. In any event, this proceeding is not controversial. Rather than the numerous opposition filings asserted in the cited proceedings, to date, TRAC is the only commenting entity, and TRAC does not assert that it represents any complaining shippers, rail carriers, or local governments to support its assertions that the requested discontinuance by NWPCo is controversial.

TRAC fails to explain how its complaints and concerns are at all relevant to the NWPCo Petition, much less that regulation of the discontinuance is necessary under 49 U.S.C. § 10502. TRAC does not explain why this proceeding is the appropriate venue to air its grievances against SMART's acquisition of operating authority or the State of California's future plans related to the Cloverdale to Willits segment.

³ Colorado, Midland & Pacific Railway Company – Lease & Operation Exemption Containing Interchange Commitment – Union Pacific Railroad Company, STB Finance Docket No. 36471 (served Mar. 25, 2021); Rio Grande Pacific Corporation – Continuance in Control Exemption – Colorado, Midland & Pacific Railway Company, STB Finance Docket No. 36470 (served Mar. 25, 2021).

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NWPCo respectfully requests that the Board reject the TRAC Letter and the relief requested therein because TRAC's complaints are irrelevant to the Petition for Exempt Discontinuance before the Board.

Respectfully,

A handwritten signature in blue ink, reading "Justin J. Marks". The signature is fluid and cursive, with the first name "Justin" and last name "Marks" clearly legible.

Justin J. Marks
*Counsel to Northwestern Pacific Railroad
Company*

CC: Train Riders Association of California