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ENTERED
Office of Proceedings
August 9, 2022
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Public Record

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Aug 9, 2022

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

By electronic filing

**Re: STB FINANCE DOCKET NO. 35692
Eastside Community Rail, LLC – Acquisition and Operation Exemption–GNP
RLY, Inc**

**STB FINANCE DOCKET NO. 35730
Ballard Terminal Railroad Company, LLC -- Lease Exemption -- Eastside
Community Rail, LLCSTB Finance Docket No. 35692**

Dear Ms. Brown:

Please accept this letter filed on behalf of GNP RLY, LLC; NW Signal Maintenance, LLC; and Kevin Kucera (collectively “GNP”) pursuant to the Board’s March 8, 2022 order issued in these consolidated proceedings.

On November 10, 2021, GNP filed a reply in opposition to Eastside Community Rail, LLC (“ECR”) and Douglas Engle’s (“Engle”) November 1, 2021 “Response and/or Petition for Reconsideration,” in the above-identified related proceedings. GNP’s reply informed the Board of two state court actions involving the Line’s easement. In the first, the state court found in a quiet title action that GNP is the sole owner of the portion of the easement that runs through Woodinville and that neither Engle nor ECR has any legal interest in it. (See, e.g., GNP Reply 3 & n.2, Nov. 10, 2021.)

In the parallel Washington State Superior Court quiet title action concerning the freight rail easement traversing Snohomish County, the trial court entered an ORDER FOR SANCTIONS against defendants Douglas Engle and Eastside Community Rail on July 29, 2022. See attached Exhibit A entered in re: GNP RLY, Inc. v. Snohomish Cnty., No. 21-2-03931-31 (Wash. Sup. Ct. filed Oct. 28, 2021).

GNP thanks the Board for its consideration with regard to the foregoing matters. Should the Board have any questions, kindly contact me directly, either by telephone (908) 361-7097 or by email jsavagelaw@aim.com.

Respectfully submitted,
James H. M. Savage

S/James H. M. Savage

by electronic signature

James H. M. Savage

Counsel for GNP RLY, LLC

NW Signal Maintenance, LLC and

Kevin Kucera

Att.

cc: service certificate

Certificate of Service

I certify that I have on this 9th day of August, 2022 served copies of this document and attachment thereto upon all parties of record in this proceeding, by electronic mail.

James H. M. Savage, Esq.

S/James H. M. Savage

by electronic signature

James H. M. Savage

Counsel for GNP RLY, LLC

NW Signal Maintenance, LLC and

Kevin Kucera

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SNOHOMISH COUNTY SUPERIOR COURT
IN THE STATE OF WASHINGTON

GNP RLY, INC., a Washington corporation,
NW SIGNAL MAINTENANCE, LLC, a
Washington limited liability company,

Plaintiffs,

vs.

SNOHOMISH COUNTY, a municipal
corporation, EASTSIDE COMMUNITY
RAIL, LLC, a Washington limited liability
company, TELEGRAPH HILL
INVESTMENTS, LLC, a Wyoming limited
liability company; DOUGLAS ENGLE, an
individual; BALLARD TERMINAL
RAILROAD COMPANY, LLC, a
Washington limited liability company;
JOANNE SKIEVASKI, an individual; EARL
ENGLE, an individual; and ALL OTHER
PERSONS OR PARTIES UNKNOWN
CLAIMING ANY RIGHT, TITLE, ESTATE,
LIEN, OR INTEREST IN THE REAL
PROPERTY DESCRIBED IN THIS
COMPLAINT,

Defendants.

NO. 21-2-03931-31

[PROPOSED] ORDER REGARDING
PLAINTIFF GNP RLY, INC.'S MOTION
FOR ORDER FINDING EASTSIDE
COMMUNITY RAIL, LLC AND
DOUGLAS ENGLE IN CONTEMPT AND
IMPOSING SANCTIONS FOR FAILURE
TO COMPLY WITH ORDER OF THE
COURT

This matter came before the Court on motion of Plaintiff GNP RLY, Inc.'s for an Order finding defendants Eastside Community Rail, LLC and Douglas Engle in contempt of court for their failure to timely answer Plaintiff GNP RLY Inc.'s discovery requests on or before

[PROPOSED] ORDER

- 1 -

ORIGINAL

THE CHARTWELL LAW
OFFICES, LLP
1050 SW 6th Avenue, Ste. 1100
Portland, OR 97204
(503) 886-8108

1 July 1, 2022, as ordered by the Court; for discovery sanctions; for remedial sanctions; and for
2 terms including payment of Plaintiff GNP RLY, Inc.'s costs incurred in connection with its motion.

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

4 DEFENDANT'S OBJECTION AND RESPONSE

5 PETITIONERS REPLY MATERIALS

6
7
8 Based on the arguments of counsel, the pleadings, and evidence presented, the Court finds:

- 9 1. Defendants ECR and Engle have each willfully failed to comply with the Court's Order
10 Compelling Discovery Responses by failing to answer GNP RLY, Inc.'s discovery
11 requests on or before July 1, 2022.
- 12 2. ECR and Engle are, accordingly, each in contempt of court, and have been since
13 July 2, 2022.
- 14 3. GNP RLY, Inc.'s discovery requests to Engle and ECR bear directly upon the central
15 issue in this case, the ownership of the freight rail easement.

16 Based upon the above findings, It Is Ordered:

- 17 1. Pursuant to CR 37(b)(2)(A), it is taken as established for purposes of this action that
18 neither ECR nor Engle possesses any legal interest in the freight rail easement at issue
19 in this case.
- 20 2. Pursuant to CR 37(b)(2)(C), any answer filed by ECR and/or Engle in this case is
21 hereby stricken.
- 22 3. Pursuant to CR 37(b)(2)(B), ECR and Engle are each precluded from defending GNP
23 RLY, Inc.'s action or introducing evidence with respect to ownership of the freight rail
24 easement at issue in this case.

25 ///

[PROPOSED] ORDER

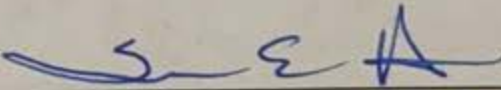
1 4. Pursuant to CR 37(b)(2)(D) and RCW 7.21.030(2), remedial sanctions in the form of
2 forfeiture of \$2,000 per day are imposed upon ECR for each day that it has been in
3 contempt of court, from July 2, 2022 through the date of this Order, totaling
4 \$_____.

5 5. Pursuant to CR 37(b)(2)(D) and RCW 7.21.030(2), remedial sanctions in the form of
6 forfeiture of \$2,000 per day are imposed upon Engle for each day that he has been in
7 contempt of court, from July 2, 2022 through the date of this Order, totaling
8 \$_____.

9 6. Pursuant to RCW 7.21.030(3) and CR 37, ECR and Engle shall pay to GNP RLY, Inc.
10 its reasonable attorney's fees and costs in bringing its motion and securing this Order
11 when those are appropriately documented by way of a declaration or affidavit.

12 7. _____
13 _____
14 _____

15 SO ORDERED this 29 day of July, 2022.

16
17
18 
19 By: COURT COMMISSIONER

20 Respectfully submitted by:

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[PROPOSED] ORDER