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SERVICE DATE – SEPTEMBER 14, 2022

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1316X

GNP RLY, INC.—ABANDONMENT EXEMPTION—IN KING COUNTY, WASH.

Decided: September 13, 2022

On March 18, 2022, GNP RLY, Inc. (GNP), filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 2.58-mile segment of rail line extending between milepost 23.8 and milepost 26.58 in Woodinville, King County, Wash., along with a spur that extends into Bothell, Wash. (the Line). By decision served April 11, 2022, the proceeding, including environmental review, was held in abeyance to allow GNP to address whether the proposed abandonment, if consummated, would isolate a railbanked segment of rail line south of milepost 23.8, and to clarify the milepost number of the Line’s northern endpoint. See GNP RLY, Inc.—Aban. Exemption—in King Cnty., Wash., AB 1316X, slip op. at 1 (STB served Apr. 11, 2022).

On April 19, 2022, GNP filed a supplement, explaining that it has reached an agreement to transfer its property interest in the segment of the Line between milepost 23.8 and milepost 26.58 to the City of Woodinville (Woodinville) for interim trail use/rail banking, which GNP argues will preserve the connection between the segment south of milepost 23.8 and the interstate rail network. (GNP Suppl. 1, Apr. 19, 2022.) GNP states that it intends to abandon the spur that extends into Bothell, which is not connected to any active or railbanked right-of-way other than the Line itself. (Id. at 1-2.) In addition, GNP confirms that the correct milepost number of the Line’s northern endpoint is 26.58. (Id. at 2.)

On May 4, 2022, GNP filed an additional supplement that includes a copy of a March 2021 Settlement Agreement between GNP and Woodinville, which GNP states commits the parties to undertake joint efforts to rail bank the Line and implement rail banking following the Board’s issuance of a notice of interim trail use or abandonment covering the Line. (GNP Suppl. 1-2, May 4, 2022; see also id., Ex. A.)

On May 6, 2022, GNP filed a verified statement executed by Brandon Buchanan, the City Manager of Woodinville, who confirms, among other things, GNP’s representations in the May 4 supplement regarding the March 2021 Settlement Agreement. (GNP V.S. Brandon Buchanan 2.)

By letter filed on May 24, 2022, GNP, along with NW Signal Maintenance, LLC, and Kevin Kucera, informed the Board that a Washington State appellate court recently affirmed a lower court’s ruling in a quiet title action that GNP is the owner of a freight rail easement in Woodinville that is part of the Line GNP is seeking to abandon through its notice of exemption.

(GNP Letter 1-2, May 24, 2022); see also City of Woodinville v. Eastside Cmty. Rail, LLC, 510 P.3d 355 (Wash. Ct. App. 2022).

On May 27, 2022, the Hon. Suzan K. DelBene, Member of Congress, filed a letter discussing GNP's and Woodinville's plans to rail bank the Line's right-of-way and urging the Board's "expeditious, full, and fair consideration" of this proceeding. (DelBene Letter 1-2.)

The segment between milepost 23.8 and milepost 26.58 in Woodinville, which comprises part of the Line GNP is seeking to abandon through its notice of exemption, is one of two segments of a freight rail easement at issue in Eastside Community Rail, LLC—Acquisition & Operation Exemption—GNP RLY, Inc., Docket No. FD 35692 et al. The other segment, located in Snohomish County, Wash., extends from milepost 26.58 to milepost 38.25 (the Snohomish Segment). In a decision served March 8, 2022, the Board noted that quiet title actions involving both segments were pending in the Washington State courts and ruled that it would not decide a request to reopen that Board proceeding until after the state court proceedings have been completed. See Eastside Cmty. Rail, LLC—Acquis. & Operation Exemption—GNP RLY, Inc. (March 8 Decision), FD 35692 et al., slip op. at 3-4 (STB served Mar. 8, 2022).

Consistent with the Board's ruling in the March 8 Decision, this proceeding will remain in abeyance until the state court actions involving both segments have been definitively resolved. The quiet title action concerning the Snohomish Segment remains pending in state court. The outcome of that litigation could affect the Board's determination on the request to reopen Docket No. FD 35692 et al.

It is ordered:

1. This proceeding, including environmental review, will remain in abeyance, as discussed above.
2. This decision is effective on its service date.

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