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Feb. 6, 2023

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 January 26, 2023 the Snohomish County, WA Superior Court entered the attached Order dismissing the Claims of, *inter alia*, Douglas Engle, Eastside Community Rail, LLC, and Ballard Terminal Railroad Company, LLC to ownership of the freight easement running through the Snohomish County segment of the subject rail line.

GNP is scheduled to meet with Snohomish County on Feb. 21, 2023 in an effort to fully resolve remaining issues. 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: Kelsey Terry

Certificate of Service

I certify that I have on this 6th day of Feb., 2023 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

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Kevin Kucera

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



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);

and Declaration of Sean Reay to correct errors

~~6. Response of Douglas Engle, ECR, Earle Engle, Joann Skievaski, Telegraph Hill Investments, or Ballard Terminal Rail Corporation, if any;~~

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

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.

*Investments
or
Ballard
Terminal
Rail Corp.
DID NOT
file any
response/
opposition
to Plaintiff's
Motion.*

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

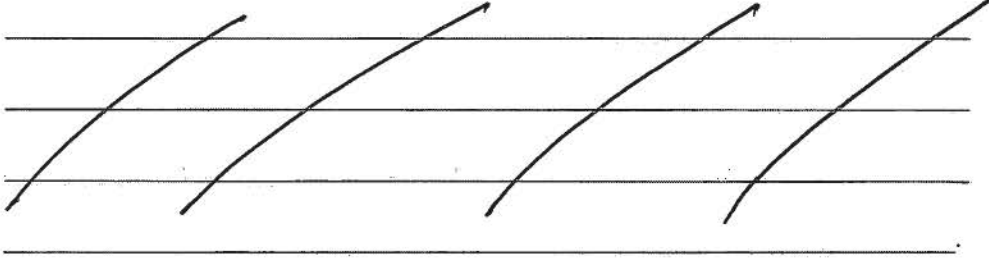
1 and in relation to its successful motion for contempt order and the instant summary
2 judgment motion.

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
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