



Board of Commissioners

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CLERK OF THE BOARD

Kelly Dombrowsky

March 13, 2023

Ms. Cynthia T. Brown

Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.

Washington, D. C. 20423

306305

ENTERED
Office of Proceedings
March 14, 2023
Part of
Public Record

RE: Docket No. AB-1244X, *Columbia & Cowlitz Railway, LLC—
Abandonment
Exemption—in Cowlitz County, Wash.*

Dear Ms. Brown:

The Board of County Commissioners of Cowlitz County, WA (“Cowlitz County”) respectfully requests the Surface Transportation Board (“Board”) to issue a new Notice of Interim Trail Use (“NITU”) in the above-entitled proceeding for the approximately 7-mile rail line between milepost 1.5 at Longview and milepost 8.5 at Ostrander Junction, in Cowlitz County, WA (the “Line”) owned and operated by Columbia & Cowlitz Railway, LLC (“CCRY”).

Cowlitz County recognizes that a NITU was first issued on September 29, 2017, for 180 days¹, that the trail use negotiation period was extended a total of 2 years, six months, and two days, as the result of three 180 day extensions,² one two day extension³, and one one-year extension.⁴ At the end of the one year extension, negotiations ended and the NITU terminated.

CCRY has not consummated the abandonment. Nor has it complied with the seven environmental and historic conditions imposed on the abandonment.⁵

After the NITU terminated in this proceeding, the Board adopted rules limiting trail use to an initial period of one year with no more than three one-year extensions.⁶ To date, the Line has been subject to trail use for an initial period of 180 days and extensions of two years, six months and two days. Cowlitz County requests

¹ Docket No. 1244X, *Columbia & Cowlitz Railway, LLC -Abandonment Exemption-in Cowlitz County, Wash.* (served September 29, 2017).

² Docket No. 1244X, *Columbia & Cowlitz Railway, LLC -Abandonment Exemption-in Cowlitz County, Wash.* (served April 11, 2018), Docket No. 1244X, *Columbia & Cowlitz Railway, LLC -Abandonment Exemption-in Cowlitz County, Wash.* (served April 23, 2019), and Docket No. 1244X, *Columbia & Cowlitz Railway, LLC -Abandonment Exemption-in Cowlitz County, Wash.* (served December 16, 2019).

³ Docket No. 1244X, *Columbia & Cowlitz Railway, LLC -Abandonment Exemption-in Cowlitz County, Wash.* (served March 20, 2019).

⁴ Docket No. 1244X, *Columbia & Cowlitz Railway, LLC -Abandonment Exemption-in Cowlitz County, Wash.* (served May 15, 2021).

⁵ See Docket No. 1244X, *Columbia & Cowlitz Railway, LLC -Abandonment Exemption-in Cowlitz County, Wash.* (served September 29, 2017).

⁶ Docket No. EP 749 (Sub-No. 1), *Limiting Extensions of Trail Use Negotiating Periods* (served December 4, 2019).

FILING FEE WAIVED

the issuance of a new NITU for one-year less two days to bring the total negotiating period to four years within the time frame permitted by the 49 CFR 1152.29(d)(1)(ii).

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However, if the Board determines that Cowlitz County does not qualify for the four years of negotiations, we assert that there are extraordinary circumstances as recognized by the Board.

At the time the original NITU expired, Cowlitz County did not have funding in place to acquire the Line. Arranging for funding was disrupted by the unprecedented Covid-19 pandemic. As a result of the pandemic, Cowlitz County was required to redirect its resources. Now, Cowlitz County has arranged for the funding of the acquisition of the Line for trail use.⁷ [IS THERE A DOCUMENT AUTHORIZING FUNDING – LEGISLATION, GRANT, OR SOMETHING ELSE THAT WE CAN REFER TO AND PROVIDE?] CCRY has been advised that CCRY consents to finalizing negotiations and transferring the Line to Cowlitz County for trail use. Cowlitz County anticipates CCRY filing its concurrence with this request shortly.

Since the NITU has expired, Cowlitz County requests the Board to issue a new NITU for the Line and provides the following Statement of Willingness to Assume Financial Responsibility pursuant to 49 CFR 1152.29(a).

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29 with respect to the right-of-way owned by Columbia & Cowlitz Railway, LLC (“CCRY”) and operated by Columbia & Cowlitz Railway, LLC, the Board of County Commissioners of Cowlitz County, WA (Cowlitz County”) is willing to assume full responsibility for: (1) Managing the right-of-way, (2) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability), and (3) the payment of any and all taxes that may be levied or assessed against the right of way. The property, known as the Line, extends from railroad milepost 1.5 at Longview to milepost 8.5 at Ostrander Junction, in Cowlitz County, WA. The right-of-way is the line of railroad proposed for abandonment in Docket No. STB AB 1244X. A map of the property depicting the right-of-way is attached.

Cowlitz County acknowledges that use of the right-of-way is subject to the sponsor's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad(s) on the same date it is being served on the Board.

As a local government entity, Cowlitz County requests waiver of the filing fee pursuant to 49 CFR 1002.2(e)(1). I certify that I have served all parties of record.

Please contact me if you have any questions.

⁷ Extraordinary circumstances might include specific evidence that necessary funding is imminent. Docket No. EP 749 (Sub-No. 1), *Limiting Extensions of Trail Use Negotiating Periods* (served December 4, 2019), at 10-11.

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Respectfully submitted,
Board of County Commissioners
Of Cowlitz County, Washington

A handwritten signature in blue ink, appearing to read "Dennis Weber", is written over the printed name.

Dennis Weber, Chairperson

Attachment: Map

Columbia & Cowlitz Railway



● Interchange Station

— CLC

— Other Railroads

