

SERVICE DATE – MAY 26, 2023

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 1316X

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

Decided: May 25, 2023

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 a freight rail easement between milepost 23.8 and milepost 26.38, along with a spur that extends into Bothell, Wash., all in Woodinville, King County, Wash. (the Line). Notice of the exemption was served and published in the Federal Register on April 28, 2023 (88 Fed. Reg. 26,375). The exemption is scheduled to become effective on May 28, 2023.

The Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) served a Draft Environmental Assessment (Draft EA) on April 25, 2023, recommending that one condition be imposed on any decision granting abandonment authority. OEA recommended that, in the event that any unanticipated archaeological sites, human remains, funerary items, or associated artifacts are discovered during the railroad's abandonment-related salvage activities, GNP shall immediately cease all work and notify OEA, interested federally recognized tribes, and the Washington Department of Archeology & Historic Preservation (SHPO) pursuant to 36 C.F.R. § 800.13(b), and OEA will then consult with the SHPO, interested federally recognized tribes, GNP, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

Comments on the Draft EA were due by May 10, 2023. OEA served its Final Environmental Assessment (Final EA) on May 17, 2023. The Final EA notes that no new comments were received, and OEA therefore continues to recommend that the condition recommended in the Draft EA be imposed.

On May 5, 2023, the City of Woodinville (Woodinville) filed a request for issuance of a notice of interim trail use or abandonment (NITU) under the National Trails System Act, 16 U.S.C. § 1247(d), to establish interim trail use/railbanking on the Line, excluding the spur that extends into Bothell. Woodinville represents that the spur is stub-ended and not connected to the interstate rail network. Attached to Woodinville's NITU request is a letter from GNP stating that GNP supports the issuance of a NITU and noting that GNP and Woodinville previously entered an agreement to pursue interim trail use/railbanking of the Line.

Interim Trail Use. Woodinville's request for a NITU complies with the requirements of 49 C.F.R. § 1152.29, and GNP has indicated that it is willing to negotiate an agreement for

interim trail use with Woodinville. Therefore, a NITU will be issued. The parties may negotiate an agreement during the one-year period prescribed below. If an interim trail use agreement is reached (and thus, interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2) & (h). If no agreement is reached within one year, GNP may fully abandon the Line, subject to any outstanding conditions. See 49 C.F.R. § 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation of the right-of-way for rail service.

This decision, and the proposed abandonment if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The notice served and published in the Federal Register on April 28, 2023, exempting the abandonment of the Line described above, is modified to the extent necessary to implement interim trail use/rail banking as set forth below to permit the parties to negotiate for interim trail use for the rail line, for a period of one year from the service date of this decision and notice, until May 26, 2024.
3. The abandonment is also subject to the following condition:¹ in the event that any unanticipated archaeological sites, human remains, funerary items, or associated artifacts are discovered during the railroad's abandonment-related salvage activities, GNP shall immediately cease all work and notify OEA, interested federally recognized tribes, and the SHPO pursuant to 36 C.F.R. § 800.13(b), and OEA will then consult with the SHPO, interested federally recognized tribes, GNP, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.
4. If an interim trail use/rail banking agreement is reached, it must require the trail sponsor to assume, for the term of the agreement, full responsibility for: (i) managing the right-of-way; (ii) 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 (iii) the payment of any and all taxes that may be levied or assessed against the right-of-way.
5. Interim trail use/rail banking is subject to possible future reconstruction and reactivation of the right-of-way for rail service and to the trail sponsor's continuing to meet its responsibilities for the right-of-way described in paragraph 4 above.

¹ If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 were to be reached for the Line (or a portion thereof), compliance with this condition would not be required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

6. If an interim trail use/rail banking agreement is reached (and thus, interim trail use/rail banking is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. See 49 C.F.R. § 1152.29(d)(2), (h).

7. If interim trail use/rail banking is implemented, and subsequently the trail sponsor intends to terminate trail use on all or any portion of the right-of-way covered by the interim trail use/rail banking agreement, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

8. If an agreement for interim trail use/rail banking is reached by May 26, 2024, interim trail/rail banking use may be implemented. If no agreement is reached, GNP may fully abandon the Line, subject to any outstanding conditions.

9. This decision and notice is effective on its service date.

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