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VIA E-FILING

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
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Public Record

RE: The Burlington Northern and Santa Fe Railway Company—Abandonment
Exemption—in King County, WA, STB Finance Docket No. AB-6 (Sub-No.
380X)

Petitioner Waverly Hills Club, Incorporated, Reply to Letter dated April 21,
2026, on behalf of Respondent King County

Dear Chief:

Petitioner Waverly Hills Club, Inc. (“Waverly” or the “Club”) submits this response to King County’s April 21, 2026 letter regarding recent Federal District Court independent decisions related to the Waverly Hills Club and a separate decision related to the Spencers. The Decision related to the Club is Attachment A to the County Letter. The County Letter mischaracterizes both the scope and effect of the District Court ruling as to the Club.

Specifically, the County asserts that: “the Court’s decisions reflect the wisdom in permitting a court, rather than the Board, to consider the questions of state law that are enmeshed in these controversies.” To the contrary, the District Court’s ultimate ruling on the Club’s claim—that the County has exclusive use and control of the Trails Act easement and dormant railroad easement—was based on Federal, not State law, namely the 1875 Act and the Trails Act. While the Court reviewed the Club’s chain of title, the District Court did not make a decision on that issue and moved on to consideration of the exclusive use issue under Federal law.

The County’s Letter also completely ignores the overriding Federal law issue raised in the Club’s Petition to the Board. Specifically, the Club’s Petition seeks to derailbank a portion of the rail line which leads to abandonment of that portion—a question of Federal, not State law, and a question that is clearly within the *exclusive* jurisdiction of this Board. The Club’s Reply to Motion of King County to Hold Proceedings in Abeyance (filed with the Board on 3/24/25), thoroughly addresses this

issue at pages 2-6. The District Court did not, and could not, address the Club's de-railbank request which can only be addressed by this Board. That alone is a sufficient reason to reject the County's Letter request to dismiss or stay the Petition.

In addition, the County's Letter also completely ignores that on April 14, 2026, a week before the County's Letter, the Club filed a motion to obtain immediate appellate review of the District Court's decision—the Club's Motion seeks a Rule 54(b) judgment or certification of interlocutory appeal under 28 U.S.C. § 1292(b). The Spencer's filed a similar motion. A copy of the Club's Motion is attached as Appendix 1. The District Court may grant the Club's Motion and authorize an immediate appeal which would delay a final determination in the Federal Courts. Regardless of the Club's new motion, the decision by the Federal District Court is an interlocutory decision that is not a final, binding decision. The court rules are clear that such interlocutory decisions: "may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities." Federal Rules of Civ. Proc. Rule 54(b). The Board should not be relying on a non-final, appealable ruling that could be completely altered in further proceedings, especially when there are important Federal railbanking issues before the Board not addressed by the District Court.

Finally, the Board should decide the other issues raised in the Club's Petition which are central to the Board's jurisdiction over railbanked corridors. Club's Reply re Abeyance (pages 6-9). The District Court decision holds that, "King County's easement is exclusive under the 1875 Act and the Trails Act." Slip Op. at 11. These are Federal law issues that the Board should be deciding because the Board is the Federal agency authorized to address railroad matters.

The District Court's decision states that the Court was bound by the Ninth Circuit's ruling in the *Alaska R.R. Corp.* case, even though that case was not a Rails to Trails case. *Id.* at 12-13; *Alaska R.R. Corp. v. Flying Crown Subdivision Addition No. 1 & Addition No. 2 Prop. Owners Assoc.*, 89 F.4th 792 (9th Cir. 2023). The *Alaska R.R. Corp.* involved an operating railroad, and thus did not explore the exclusive use issue in the context of no railroad operations and only trail use. The Board is in a better position to make a nationwide ruling on these important questions related to ongoing railroad operations and the trail sponsor's authority under the Trails Act and railroad easements to manage railbanked corridors while protecting underlying Constitutionally protected private property rights.

In summary, the Board has clear exclusive jurisdiction to decide the Club's de-railbanking request. The Board as the Federal agency with authority should be deciding the other Federal law issues directly related to railbanking. For these

reasons, the Board should proceed with making a decision on the Club's Petition and reject the County's request to deny the Club's Petition or for a stay.

Sincerely,

STEPHENS & KLINGE LLP

/s/ Charles A. Klinge

Charles A. Klinge

Attorneys for Petitioner

Waverly Hills Club, Incorporated

a Washington nonprofit corporation

CERTIFICATE OF SERVICE

I hereby certify that I have on the 1st day of May 2026, caused to be served a copy of the foregoing Waverly Hills Letter Response to King County Letter upon all parties of record in this proceeding by email.

/s/ Charles A. Klinge

Charles A. Klinge, WSBA #26093

APPENDIX 1

Waverly Hills Club Inc. v. King County

Case 2:25-cv-00204-TMC

PLAINTIFF WAVERLY HILLS CLUB'S MOTION FOR RULE
54(b) JUDGMENT OR CERTIFICATION OF
INTERLOCUTORY APPEAL

(April 14, 2026)

HONORABLE TIFFANY M. CARTWRIGHT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

SPENCER et al,
Plaintiffs,

v.

KING COUNTY,
Defendant.

No. 2:25-cv-00204-TMC

**PLAINTIFF WAVERLY HILLS
CLUB'S MOTION FOR RULE 54(b)
JUDGMENT OR CERTIFICATION
OF INTERLOCUTORY APPEAL**

WAVERLY HILLS CLUB,
INCORPORATED,
Plaintiff,

v.

KING COUNTY,
Defendant.

NOTE ON MOTION CALENDAR:

**May 5, 2026
Without Oral Argument**

Plaintiff Waverly Hills Club makes this motion requesting that the Court enter a final judgment as to the declaratory relief claims under FRCP 54(b) to authorize an immediate appeal or grant certification for an interlocutory appeal under 28 U.S.C. § 1292(b). The Court's Order Granting in Part and Denying in Part Motion

1 for Summary Judgment Against Waverly Hills Club (Dkt. 62, 3/31/26) decided the
2 controlling legal question in the case that the Club defines as follows:

3 Whether a Trails Act easement derived from an 1875 Act railroad right of
4 way confers a categorical right to exclude all fee-owner uses, or whether the
5 scope of the easement remains limited by its purposes such that
6 noninterfering uses remain permissible.

7 As explained below, this is an issue of first impression at the Ninth Circuit and the
8 Supreme Court as well. This Court believes that its determination on this issue is
9 bound by Ninth Circuit precedent while the Club contends that the Ninth Circuit
10 precedents are distinguishable or support the Club's position. Because the
11 exclusive use issue is the controlling issue in this case, there is no just reason to
12 delay an appeal on this issue, thus justifying a final judgment on certain claims
13 under Rule 54(b) or certification under 28 U.S.C. § 1292(b). Plaintiff should be
14 allowed to have the Ninth Circuit review this key issue at the earliest opportunity.

14 **Argument**

15 The Court should either enter final judgment on certain claims, namely on the
16 Club's and the County's declaratory relief claims under FRCP Rule 54(b), or the
17 Court should certify the Court's Order dated March 31, 2026, for an interlocutory
18 appeal pursuant to 28 U.S.C. § 1292(b). Courts have addressed these independent
19 bases for allowing an early appeal together. *See Writers Guild of America, West,*
20 *Inc. v. American Broadcasting Co., Inc.*, 609 F.2d 355, 358 (9th Cir. 1979)
21 (considering both FRCP 54(b) and 28 U.S.C. § 1292(b)). Each alternative request
22 for relief is addressed below.
23

I

**The Court should enter final judgment under FRCP Rule 54(b)
as to the Club's and the County's requests for declaratory relief
on the exclusive use issue**

The Court should enter a final judgment on the Club's and the County's declaratory relief claims based on the Order's conclusion that the County's property rights include exclusive use authority over the right of way easement area. Dkt. 62 at 13:13-15. Entry of judgment is appropriate now because there is no just reason for delay. The foundational issue as set forth in the Introduction, whether the County has exclusive use authority, should be resolved before other claims proceed. Rule 54(b) provides specific authorization for a final judgment on certain claims:

When an action presents more than one claim for relief—whether as a claim, counterclaim, crossclaim or third-party claim—or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay.

Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.

FRCP Rule 54(b) (paragraph break added). The Court's Order regarding the Club is specific to the Club and is distinct from the ruling regarding the other parties in the case—the Spencer Plaintiffs. The Spencers' case and Club's case were of course originally filed separately until consolidation was ordered due to similar issues (Dkt. 8), but those issues have now diverged based on the Court's rulings further

1 justifying a Rule 54(b) final judgment on the Club's and County's claims (and likely
2 also deconsolidation).

3 The Supreme Court's seminal case on final judgments on certain claims
4 pursuant to FRCP Rule 54(b) is *Curtiss-Wright Corp. v. Gen. Elec. Co.*, 446 U.S. 1,
5 7-11 (1980). The Supreme Court explained that the District Court must determine
6 that there is a final determination on one or more claims and not just rulings on
7 aspects of a claim. *Id.* at 7. Second, the court must determine whether there is any
8 just reason for delay. *Id.* at 8. The *Curtiss-Wright* Court upheld the Rule 54(b)
9 determination as within the sound discretion of the District Court.

10 In this case, this Court specifically granted summary judgment to the County
11 on the Club's and the County's claims for declaratory relief on the exclusive use
12 issue. Dkt. 62 at 13:13-15 (citing County request for declaratory relief at Dkt. 9 at
13 18); *see also* Complaint at ¶¶ 29-32 (Dkt. 1 in closed case). The remaining claims
14 are the County's claims for trespass, quiet title, and ejectment (Dkt. 9), and the
15 Club's claim for declaratory relief on the land use fees. Complaint at ¶ 33 (Dkt. 1 in
16 closed case). For the following reasons, the Court should enter final judgment on
17 the Club's and the County's claims for declaratory relief on the exclusive use issue.

18
19 **A. The Court's Order is a final decision on the exclusive use claim.**

20 The Court must first determine whether the ruling on exclusive use is a final
21 decision. The Supreme Court in *Curtiss-Wright* explained:

22 It must be a judgment in the sense that it is a decision upon a cognizable
23 claim for relief, and it must be final in the sense that it is an ultimate

1 disposition of an individual claim entered in the course of a multiple
2 claims action.

3 446 U.S. at 7 (internal quotations omitted). The exclusive use issue is a cognizable
4 claim. The Court's decision is an ultimate disposition of the declaratory relief
5 claims related to the County's property right to exercise exclusive use authority
6 over the right of way. The Court granted summary judgment to the County on
7 those claims. Dkt. 62 at 13:13-15. The exclusive use issue has been finally
8 adjudicated by this Court, and thus meets the requirement for a final judgment on
9 certain claims to be entered under FRCP Rule 54(b).

10 **B. The Court should enter final judgment on certain claims pursuant to**
11 **FRCP Rule 54(b) because there is no just reason for delay.**

12 The Court must then determine whether there is any just reason for delay in
13 issuing a final judgment as to certain claims. In determining whether there is a
14 "just reason for delay," the Court should: "take into account judicial administrative
15 interests as well as the equities involved." *Curtiss-Wright*, 446 U.S. at 8; *see*
16 *also Noel v. Hall*, 568 F.3d 743, 747 (9th Cir. 2009) (noting that a Rule 54(b) motion
17 may be granted when "resolving the claims would streamline the ensuing
18 litigation"). Therefore, the Court may:

19 consider such factors as whether the claims under review [are] separable
20 from the others remaining to be adjudicated and whether the nature of
21 the claims already determined [are] such that no appellate court [will]
22 have to decide the same issues more than once even if there [are]
23 subsequent appeals.

Curtiss-Wright, 446 U.S. at 8.

1 A final judgment on the exclusive use issue would lead to finality on that issue
2 and establish the law for the remainder of the case. The Club would be able to
3 immediately appeal the exclusive use issue which is strongly contested by the Club.
4 And, if for some reason the Club did not appeal, then the exclusive use issue would
5 be final and not subject to revision. *See* Rule 54(b).

6 But, the Club wants to appeal because the exclusive use issue is the key issue in
7 the case. The remaining claims are the County's claims for trespass, quiet title, and
8 ejectment (Dkt. 9), and the Club's claim for declaratory relief on the land use fees.
9 Complaint at ¶ 31 (Dkt. 1 in closed case). The Court has directed the trespass and
10 ejectment claims to trial, but the context of any trial would be totally different if
11 the Club is successful in obtaining reversal by the appellate court. The exclusive
12 use authority means that the County has complete control and would essentially be
13 able to exercise fee ownership of the right of way (subject only to potential future
14 abandonment). The Club would have no current use "rights," and instead would
15 have to rely on the County's discretionary permission. The County would argue
16 that the Club is trespassing and needs to pay damages and be ejected. The Club's
17 declaratory relief claim on the County's land use fees is also tied to the Club's claim
18 to fee ownership. Complaint at ¶33 (Dkt. 1 in closed case).

19
20 However, if the Club owns fee title to the right of way, then future proceedings
21 would have an entirely different focus. The Court would be looking at the shared
22 rights of the parties—the fee owner's rights versus the County's easement rights.
23 The focus would be on the County's current trail uses and potential future railroad

1 uses and whether the Club's uses materially interfere with the County's uses. *See*
 2 *Marvin M. Brandt Revocable Trust v. United States*, 572 U.S. 93, 110 (2014) (the
 3 1875 Act granted a simple easement, not a limited fee) and *Veach v. Culp*, 92 Wn.
 4 2d 570, 575 (1979). An immediate appeal at this time should avoid the possibility of
 5 two trials that could occur if a trial is held on trespass etc., followed by a successful
 6 appeal by the Club, and then a remand for a trial on material interference and
 7 possibly the County's land use fees.

8 The Club has a strong basis to appeal (Dkt. 49 at 22-33), so the equities favor
 9 allowing the Club to obtain an appellate decision on the exclusive use issue prior to
 10 litigating the remaining issues. The exclusive use issue for trail use of an 1875 Act
 11 easement is one of first impression in the Ninth Circuit as will be explained. The
 12 Court's Order states that the Court was bound by the Ninth Circuit's ruling in the
 13 *Alaska R.R. Corp.* case, even though that case was not a Rails to Trails case.
 14 *Alaska R.R. Corp. v. Flying Crown Subdivision Addition No. 1 & Addition No. 2*
 15 *Prop. Owners Assoc.*, 89 F.4th 792 (9th Cir. 2023). The Order further found the
 16 rationale of the District Court decisions in *Kaseburg* and *Hornish* to be persuasive
 17 even though the two cases did not involve an 1875 Act easement.
 18

19 The *Alaska R.R. Corp.* involved an operating railroad, and thus did not explore
 20 the exclusive use issue in the context of no railroad operations and only trail use.
 21 The *Alaska R.R. Corp.* case did not even directly involve an 1875 Act easement, but
 22 only considered the 1875 Act in interpreting the 1914 Act related to the Alaska
 23 railroads, and even though the Ninth Circuit recognized that the 1875 Act was "an

1 inapt analogy to the 1914 Act.” 89 F.4th at 802. The Ninth Circuit recognized that
 2 the Supreme Court had not ruled on the exclusive use issue for railroads with an
 3 1875 Act easement, but nevertheless ruled that the 1875 Act gave the railroad
 4 exclusive rights. *Id.* Critically, the above demonstrates that the Ninth Circuit has
 5 not addressed the exclusive use issue based on an 1875 Act easement in which the
 6 easement is currently used for a trail due to Rails to Trails conversion (subject to
 7 potential future railroad reactivation). That is an issue of first impression.

8 The Ninth Circuit also did not address the exclusive use issue in the *Kaseburg*
 9 and *Hornish* appeals. While Judge Coughenour in *Kaseburg* and Judge Pechman
 10 in *Hornish* both declared the easement rights exclusive, neither decision had any
 11 occasion to analyze 1875 Act easements and the related Supreme Court cases. *See*
 12 *Kaseburg v. Port of Seattle*, 2015 WL 6449305, at *5 (W.D. Wash. Oct. 23, 2015);
 13 *Hornish v. King County*, 182 F. Supp. 3d 1124 (W.D. Wash. 2016). The *Kaseburg*
 14 appeal did not mention the exclusive use issue, but did limit the use by stating that
 15 the non-1875 Act easement could be used for railroad purposes and recreational
 16 trail purposes. *Kaseburg v. Port of Seattle*, 744 F. Appx. 356, 359 (9th Cir. 2018).
 17 Instead citing the exclusive use language by the District Court, the Ninth Circuit
 18 in the *Hornish* appeal cites the railroad and recreational trail uses and declared:
 19

20 ***Since there is no evidence that King County has subsequently***
 21 ***used these easements in a manner inconsistent with their***
 22 ***purposes*** (which could trigger abandonment under state law), we hold
 23 that King County possesses the railroad and recreational trail
 easement.

1 *Hornish v. King County*, 899 F.3d 680, 697 (9th Cir. 2018) (emphasis added,
 2 citations omitted). The bold highlighted language is contrary to Judge Pechman's
 3 exclusive use conclusion and directly supports the Club's argument that the
 4 County has gone too far in prohibiting noninterfering uses by the underlying
 5 landowners. The Ninth Circuit further commented upon the County's easement
 6 uses:

7 Though this result may seem harsh, it is essential to note that [a]
 8 conveyance ... under the Trails Act [does] not leave [the former
 9 reversionary interest holders] without a remedy Indeed, it [leaves]
 10 them with a variety of possible remedies—for example, a takings action
 11 seeking compensation because [the trail sponsor's] new easement
 12 diminished the property rights [the landowners] enjoyed when the right-
 13 of-way was limited to railroad uses; or a court action claiming that [the
 14 trail sponsor is] unlawfully managing the Trail as a matter of federal or
 state law; or a petition to the STB claiming that [the trail sponsor's]
 management of the Trail impairs restoration of the right-of-way to
 railroad use. And of course [landowners] can negotiate with state officials
 to allow [them] reasonable access and use of the right-of-way for their
 ranch operations, as they presumably negotiated with railroad operators
 in the past.

15 *Hornish*, 899 F.3d at 697 fn. 4 (quoting *Trevarton v. South Dakota*, 817 F.3d 1081,
 16 1087 (8th Cir. 2016)). If the Ninth Circuit concluded that the County has exclusive
 17 use and control, then there is no basis for the Ninth Circuit to validate a challenge
 18 that the County is unlawfully managing the trail. Thus, the Ninth Circuit did not
 19 agree with exclusive use in *Hornish*. The equities favor an immediate appeal so the
 20 Club can pursue this issue of first impression prior to trial.

21 For these reasons, the Club urges the Court to enter final judgment under Rule
 22 54(b) because there is no just reason to delay entry of judgment on the Club's and
 23

County's declaratory relief claims that the County has exclusive use authority over the right of way easement area.

II

Alternatively, the Court should certify its March 31, 2026, Order for interlocutory appeal under 28 U.S.C. § 1292(b).

In the alternative to entering judgment on the exclusive use issue pursuant to Rule 54(b), the Court should certify its decision on summary judgment for an interlocutory appeal under 28 U.S.C. § 1292(b). That statute provides:

When a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order.

Id. The critical requirements are that this Court is of the opinion that: (1) the order involves a controlling question of law; (2) that there is a substantial ground for difference of opinion on that question; and, (3) that an immediate appeal from the order may materially advance the ultimate termination of the litigation. *Id.*; *Reese v. BP Exploration (Alaska) Inc.*, 643 F.3d 681, 687-688 (9th Cir. 2011). Each factor is present in regard to the Court's March 31, 2026 Order.

A. The Order involves a controlling question of law.

As argued above, the exclusive use issue is the controlling issue in the case. The remaining claims are the County's claims for trespass, quiet title, and ejectment (Dkt. 9), and the Club's claim for declaratory relief on the land use fees. Complaint

1 at ¶ 31 (Dkt. 1 in closed case). The exclusive use issue is the decisive issue that
 2 governs those remaining claims.

3 The phrase “controlling question of law” is not interpreted narrowly by the Ninth
 4 Circuit: “Courts have refused to interpret the phrase so narrowly as to require that
 5 reversal of the district court's order terminate the litigation.” *In re Cement*
 6 *Antitrust Litig.*, 673 F.2d 1020, 1026 (9th Cir. 1981). “[A]ll that must be shown in
 7 order for a question to be ‘controlling’ is that resolution of the issue on appeal could
 8 materially affect the outcome of litigation in the district court.” *Id.*

9 Here, an appellate ruling on the Club’s and the County’s declaratory relief
 10 claims on the exclusive use issue would materially affect the outcome of the
 11 remaining issues in this Court.

12 **B. There is a substantial ground for difference of opinion.**

13 As to the second requirement for an interlocutory appeal under 28 U.S.C. §
 14 1291(b), there is a substantial ground for a difference of opinion as to whether the
 15 County has exclusive control over the right of way easement. As argued above, the
 16 issue as set forth in the Introduction is a matter of first impression at the Ninth
 17 Circuit. The difference of opinion is so deep that the parties devoted over 25 pages
 18 of briefing on the issue (County Motion, Dkt. 43 at 18-25; Club Opposition, Dkt. 49
 19 at 22-33; County Reply, Dkt. 55 at 2-7). The lack of truly on point cases generates
 20 the substantial difference of opinion debated in the briefing. Also as noted above,
 21 the *Alaska R.R. Corp.* case recognized that the Supreme Court had not ruled on the
 22 exclusive use issue for railroads with an 1875 Act easement, and the same is true
 23

1 that the Supreme Court has not directly ruled on the scope of the trail easement
2 utilizing an 1875 Act easement.

3 Importantly, the Ninth Circuit has stated that: “As we have previously noted,
4 courts traditionally will find that a substantial ground for difference of opinion
5 exists where novel and difficult questions of first impression are presented.” Reese,
6 643 F.3d at 688 (quotation and citation omitted). That is the case here—the
7 exclusive use issue applied to a Rails to Trails conversion as stated in the
8 Introduction is one of first impression. The Ninth Circuit further recognized that
9 the substantial ground for difference of opinion factor requires only that
10 “reasonable jurists might disagree,” not where there is already a split of decisions.
11 *Id.* The exclusive use issue is exactly the type of novel legal issue of first
12 impression in which judges could reach different conclusions, and thus should be
13 certified for an interlocutory appeal.

14 **C. An immediate appeal will materially advance the ultimate**
15 **termination of the litigation.**

16 The third factor supporting an immediate appeal is that resolution of the
17 exclusive use issue would materially advance the ultimate termination of the
18 litigation. As argued above, the context of any trial would be totally different if the
19 Club is successful in obtaining reversal by the appellate court. Based on the Court
20 Order, the trial would focus on trespass, damages, and ejectment. If reversal is
21 obtained, the trial would focus on shared use and material interference. An
22 immediate appeal at this time should avoid the possibility of two trials that could
23

1 occur if a trial is held on trespass etc., followed by a successful appeal by the Club,
2 and then a remand for a trial on material interference. Thus, an immediate appeal
3 would materially advance ultimate termination of the litigation.

4 In summary, as an alternative to Rule 54(b), the Court should grant this
5 petition for certification of an interlocutory appeal on the controlling exclusive use
6 question for which there is a substantial ground for difference of opinion and which
7 would materially advance the ultimate termination of the litigation.

8 **Conclusion**

9 The Club contends that the Court's Order on the exclusive use issue meets the
10 requirements supporting a Rule 54(b) final judgment by the Court. That is the
11 preferred approach because the Club would then file a notice of appeal immediately
12 after entry of the Rule 54(b) judgment (and must file within 30 days or lose the
13 opportunity). With a Section 1292(b) order, the Club must immediately file a
14 petition with the Court of Appeals seeking permission to appeal. 28 U.S.C. §
15 1292(b). Therefore, the Waverly Hills Club respectfully requests that the Court
16 grant this motion and enter a Rule 54(b) final judgment finding that there is no
17 just reason for delay. Otherwise, the Court should grant the Club's request and
18 enter a Section 1292(b) order certifying an immediate appeal.
19

20 **RESPECTFULLY SUBMITTED** this 14th day of April, 2026.

21 I certify that this motion contains 3,449
22 words in compliance with the Local Civil
23 Rules.

1 /s/ Charles A. Klinge

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3 Richard M. Stephens, WSBA #21776

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