



STEPHENS & KLINGE LLP
ATTORNEYS AT LAW

10900 NE 4TH STREET, SUITE 2300
BELLEVUE, WA 98004

RICHARD M. STEPHENS
CHARLES A. KLINGE

TELEPHONE (425) 453-6206

311356

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Via E-Filing

Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

ENTERED
Office of Chief Counsel
May 14, 2026
Part of
Public Record

Re: Surface Transportation Board-STB Dkt. No. AB-6 (Sub-No. 380X)
The Burlington Northern and Santa Fe Ry. Co.—Abandonment Exemption—
in King County, WA

Raymond Spencer and Lael Spencer—Petition for Declaratory Orders

Dear Chief:

This letter is written on behalf of Raymond Spencer and Lael Spencer in response to the letter filed on April 21, 2026, from Charles A. Spitulnik, Counsel for King County, Washington.

The Spencers do not object to holding these proceedings in abeyance pending final resolution of the question of title in the pending litigation. However, it is important to note that the District Court's decision in Attachment B to Mr. Spitulnik's letter is not a final decision. FRCP 54(b) provides that when a decision is entered on some but not all claims, the decision "may be revised any time before entry of a judgment adjudicating all the claims and all the parties' rights and obligations." Therefore, Attachment B can be revised at any time before the case is finally concluded.

Considering that the issue of title has not been finally resolved, the Spencers have filed a motion in the District Court asking it to enter judgment under FRCP 54(b). If granted, Attachment B would become a final decision, not subject to revision, absent an appeal, and would allow an immediate appeal of the Attachment B order, which the Spencers intend to do. Their motion is noted for consideration by the judge for May 5, 2026, although it is unclear when a decision will be made.

Therefore, if the District Court grants the motion, the issues in Attachment B would be subject to an appeal. If the motion is not granted, Attachment B could be revised until a final judgment occurs and then later be subject to an appeal.

In short, the Spencers agree that the STB should await resolution of the appeal on this issue before proceeding with their Petition for Declaratory Orders. If the Spencers are ultimately recognized as possessing title, subject to King County's easements, this Board has ultimate authority to determine the scope of the federal easement created under the Trails Act and whether the Spencers' uses are inconsistent with the banked railroad easement. However, that can await final resolution of title.

Sincerely,

Richard M. Stephens

Richard M. Stephens
Attorney
stephens@sklegal.pro

cc: Parties of Record