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VIA E-FILING

ENTERED
Office of Proceedings
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November 25, 2016

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: STB Docket FD 36077 North Coast Railroad Authority and Northwestern Pacific
Railroad Company - Petition for Declaratory Order

Dear Ms. Brown,

Enclosed for filing in the above-referenced docket, please find the motion of the
Sonoma-Marin Area Rail Transit District ("SMART") for an extension of the procedural schedule.

If you have any questions, please let me know.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Justin J. Marks', written over the typed name.

Justin J. Marks

Enclosures

EXPEDITED CONSIDERATION REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 36077

**NORTH COAST RAILROAD AUTHORITY AND NORTHWESTERN PACIFIC
RAILROAD COMPANY – PETITION FOR DECLARATORY ORDER**

**MOTION OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT FOR
EXTENSION OF THE PROCEDURAL SCHEDULE**

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November 25, 2016

EXPEDITED CONSIDERATION REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 36077

**NORTH COAST RAILROAD AUTHORITY AND NORTHWESTERN PACIFIC
RAILROAD COMPANY – PETITION FOR DECLARATORY ORDER**

**MOTION OF THE SONOMA-MARIN AREA RAIL TRANSIT DISTRICT FOR
EXTENSION OF THE PROCEDURAL SCHEDULE**

Pursuant to 49 C.F.R. § 1104.7(b), the Sonoma-Marin Area Rail Transit District (“SMART”) respectfully requests that the Board extend the deadline for rebuttal submission in this proceeding from December 5, 2016 to January 9, 2017 so that SMART may seek discovery from the North Coast Railroad Authority (“NCRA”) and Northwestern Pacific Railroad Company (“NWPCo”).¹

By a decision served November 3, 2016, the Board set the following procedural schedule:

November 23, 2016	The Railroad’s opening statement is due.
December 5, 2016	SMART’s and any other party’s replies are due.

In its November 3, 2016 decision, the Board instructed the Railroad to provide certain information in its opening statement including:

- A detailed map of the entire Northwestern Pacific Railroad Line and operations including, but not limited to, information about interchange locations and responsibilities, which carrier has what rights and where, and alternative locations for storage. A description of the volume and type of traffic that moves over the Line.
- Whether the storage at Schellville is a service that NWPC provides at the request of and/or for another railroad or a shipper, and how that service is marketed.

¹ NCRA and NWPCo are collectively referred to herein for convenience as the “Railroad.”

- The typical route, from origin to ultimate destination, for loaded LPG tank cars stored at the Schellville yard. Including a description of NWPC's role in that movement.
- How long loaded LPG cars are typically scheduled to be stored at the Schellville yard. If there is no typical time period, a range of time the cars will be stored and a final date by which they would depart the yard for final destination.
- Evidence, such as bills of lading, demonstrating that NWPC uses the Schellville yard to transport goods in interstate commerce as part of a rail movement.²

On November 23, 2016, the Railroad filed a Brief in Support of Petition for Declaratory Order ("Railroad's Brief"). The Railroad states that the twelve loaded LPG cars that were at the California Northern Railroad interchange in Lombard have been transported to their ultimate destination.³ Railroad's Brief at 4. The Railroad also states that "[a]lmost all of the railcars loaded with LPG have been shipped" to their ultimate destination.⁴ Railroad's Brief at 4. The Railroad intends to again store loaded LPG cars in spring 2017. Railroad's Brief at 4 n. 2. In addition, the Railroad references contracts with Tesoro Refining & Marketing Company LLC ("Tesoro") and Valero Marketing Supply Company ("Valero") that purportedly contemplate "the holding of the railcars at Schellville." Railroad's Brief at 3-4. The Railroad's Brief also includes redacted versions of three bills of lading that the Railroad describes as "representative." *Id.*

Despite the Board's specific instructions to the Railroad, the Railroad has not provided in sufficient detail the information sought by the Board's November 3, 2016 decision. This factual information is necessary for the Board to have a complete record on which to decide the issues raised by the Railroad's Petition for Declaratory Order. SMART cannot adequately respond to the Railroad's Petition or the Board's November 3rd order without this factual information. Therefore, SMART is serving discovery upon the Railroad in order to obtain copies of the

² *North Coast Railroad Authority and Northwestern Pacific Railroad Company – Petition for Declaratory Order*, STB Finance Docket No. 36077 *et al.* slip op at 2-3 (STB served Nov. 3, 2016).

³ It is SMART's understanding that none of those 12 loaded LPG cars were delivered to any customer on the subject line. The Railroad does not provide the Board with any information on the destinations to which those cars allegedly were delivered or the Railroad's lack of involvement in those routings.

⁴ The Railroad does not specify which particular cars it is referring to in this sentence.

alleged contracts with Tesoro and Valero, copies of the bills of lading applicable to the loaded LPG cars at issue in order to understand the specific routings at issue and the length of time that these cars remained in storage on the subject line, and other relevant information.

The discovery requests that SMART is serving on the Railroad are not burdensome and are focused on the marketing of the Railroad's service to Tesoro and Valero, the relevant contracts, and the bills of lading related to the storage of the loaded LPG cars on the Subject Line. The Railroad should have all of this information in its possession and control and the discovery is targeted to activities that have occurred since the summer of 2016. However, in order to give the Railroad at least 15 days to respond to SMART's discovery requests, SMART hereby is filing this motion for an extension of the deadline applicable to its rebuttal filing.

SMART respectfully submits that good cause exists to grant SMART's motion. *E.g.*, *Arkansas Electric Cooperative Corp. – Petition for Declaratory Order*, STB Finance Docket 35305, slip op at 2 (STB Served May 11, 2010). Despite two conference calls with Board staff and an opportunity to make its opening filing in this proceeding, the Railroad still has not provided information that is relevant to the Board's consideration of its Petition for Declaratory Order. SMART is compelled to seek this information in discovery from the Railroad and therefore seeks this extension in order to give the Railroad the 15 days required under the Board's rules to respond to the discovery requests and sufficient time to resolve any questions that may arise from those discovery requests. Therefore, SMART seeks until January 9, 2017 to file its rebuttal statement in this proceeding (assuming that the Railroad provides a satisfactory response to SMART's discovery requests). As the Railroad has explained, the 12 loaded LPG cars are no longer at the interchange with the California Northern Railroad. Therefore, any exigency that may have existed at the commencement of this proceeding has been eliminated.

SMART respectfully requests expedited consideration of this Motion given the expedited briefing schedule established by the Board in its November 3rd order.

Respectfully submitted,



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Dated: November 25, 2016

CERTIFICATE OF SERVICE

I certify that on November 25, 2016 a true copy of the foregoing Request for an Extension to the Procedural Schedule was served via electronic mail upon the following counsel of record:

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