

247268

via electronic filing

March 11, 2019

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

ENTERED
Office of Proceedings
March 11, 2019
Part of
Public Record

Re: STB Finance Docket No. 34936, Port of Moses Lake – Construction Exemption – Moses Lake, Washington

Dear Ms. Brown:

On February 19, 2019, Ronald Piercy filed a letter in the above-captioned proceeding requesting that the Surface Transportation Board (“Board” or “STB”) consider an alternative alignment for Segment 1 of the rail construction project that was approved by the Board in 2009. The Board recently reopened this proceeding in order to consider minor project modifications proposed by the Port of Moses Lake (“Port”), and the Board invited comment “on the transportation merits of the proposed project as modified.”¹ We note that Mr. Piercy’s letter is not limited to the transportation merits of the proposal. Mr. Piercy’s letter focuses on requesting that the Board consider a wholly different route for Segment 1 of the project – a route, we note, that the Board already thoroughly evaluated in 2009 but found not reasonable due to a variety of technical and economic factors.² The remainder of the February 19th letter then focuses on asserted impacts of the project on agriculture, irrigation, and local roads; these concerns are more appropriately considered by the Board’s Office of Environmental Analysis (“OEA”).³

Despite these issues and in case the Board deem any portion of Mr. Piercy’s letter relevant to the transportation merits, the Port will briefly respond to the substance of Mr. Piercy’s comments in the remainder of this reply. The most salient point is that the Board previously considered and rejected an alternative routing almost identical to that proposed now by Mr. Piercy. That earlier routing – which was also proposed by Mr. Piercy – was known as the “Piercy Alternative” and was addressed at length in the Final Environmental Assessment

¹ See Board reopening decision, slip op. at 3 (served January 28, 2019).

² See Final Environmental Assessment (May 8, 2009) at page 3-15.

³ See Board reopening decision, slip op. at 3 (n. 7) (“The environmental review process, which is undertaken by OEA, is separate from the agency’s consideration of the transportation merits of the proposed modified project. Correspondence commenting on the environmental impacts of the proposed route modifications may be submitted to OEA...”).

March 11, 2019

Page – 2 –

(“Final EA”) published in May 2009.⁴ In the recent letter, there appears to be only one minor update in the routing previously promoted by Mr. Piercy: whereas in 2009, the “Piercy Alternative” was said to be parallel and adjacent to Bonanza Street, Mr. Piercy now states that his offered routing would be built on top of the Bonanza Street roadbed, meaning that the road would be permanently closed.⁵

This minor update to the Piercy Alternative does not change the findings previously made by the Board, which still apply to the routing promoted by Mr. Piercy. After a thorough review, the Board rejected the Piercy Alternative as not reasonable “based on technical and economic factors.” See Final EA at page 3-15. Assertions in Mr. Piercy’s recent letter do not change these facts, as shown below:

Feb. 19th assertion	Board determination in 2008
alternative is shorter	alternative requires rebuilding industrial track at east end, thus requiring 5.17 miles instead of 4.7 miles for selected route (Final EA at p. 3-3 and 3-15)
alternative is better because it avoids crossing Wheeler Road twice	alternative “could present a safety hazard to workers and disrupt existing industrial operations” because it is routed across several roadways in the midst of a busy industrial area (Final EA at p. 3-15) ⁶
alternative is better because it avoids harm to agriculture and irrigation systems	thorough consideration was given to the alternative in light of possible irrigation impacts, but the Board found the alternative “not practical based on technical and economic factors” (Final EA at p. 2-4 and 3-15); the Port is required to negotiate with affected property owners to minimize any impacts to irrigation systems (Final EA at p. 2-2 and 5-9) ⁷
alternative is better because it is almost straight and removes turns	alternative relies on industrial track at its eastern end; this industrial track has excessively tight turns typically not seen on through railroad track (Final EA at p. 3-15)

⁴ The Piercy Alternative was examined thoroughly by the OEA staff, as described on pages ES-9, ES-11, ES-14, ES-15, 2-2, 2-4, 3-3, 3-11, and 3-14 through 3-18 of the Final EA.

⁵ Compare Final EA at page 3-14 (“the alternative would parallel the south side of Bonanza Street”) to Mr. Piercy’s 2019 letter (“the county would vacate Bonanza road [sic]. The tracks would be built on this roadbed.”).

⁶ Additionally, the newly-revised Piercy Alternative would require wholesale elimination of another public street – Bonanza Street.

⁷ Additionally, the modifications now being considered by the Board include adjustment of Segment 1 to avoid an irrigation pivot.

March 11, 2019

Page – 3 –

The Port has diligently endeavored to develop the project in a manner that would least impact existing land uses in the Moses Lake area, including agriculture and its supporting irrigation infrastructure. Indeed, one of the main goals of the route modification is to reduce and minimize the impacts of the project on current land uses in the project area.

In his recent letter, Mr. Piercy does discuss one issue that could be considered related to the transportation merits of the project. Specifically, he states that his alternative route would serve industrial customers on the north side of Wheeler Road. The alignment approved by the Board in 2009 already enables service to the vast majority of industries north of Wheeler Road (as would the modified route now proposed by the Port) due to the preexisting industrial track at the east end of the project area. It is true that the Piercy Alternative could also provide rail access to a few small commercial buildings just west of L Street NE, which the approved alignment does not do. However, it is unlikely that any of these businesses would utilize the rail option, as they consist of very small, service-oriented “light industrial” zoned buildings which typically do not make use of freight rail service. Furthermore, the Piercy Alternative requires demolition of several industrial and commercial buildings along Wheeler Road (including some west of L Street NE), not to mention elimination of the public Bonanza Street.

The Port appreciates Mr. Piercy’s interest in developing the best rail line for Grant County and the Moses Lake area, as that is identical to the Port’s goal. The Port looks forward to working with area stakeholders as this project moves forward. Please do not hesitate to contact the undersigned if you have any questions.

Best regards,



Sandra L. Brown

David E. Benz

Thompson Hine LLP

1919 M Street NW, Suite 700

Washington, DC 20036

Attorneys for the Port of Moses Lake

cc: Adam Assenza, Office of Environmental Analysis
