

National Association of Reversionary Property Owners (NARPO)

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Cynthia Brown

Chief, Section of Administration Surface Transportation Board Office of Proceedings

395 E Street, SW

Washington, DC 20423

Re: Docket No. AB 6 (Sub-No. 494X), BNSF Railway Company -- Abandonment Exemption -- In Larimer County, Colo.

Dear Ms. Brown:

NARPO is writing today to inform the STB about certain conditions relating to the AB 6-494X. In this instance BNSF is asking for an extension of the consummation date for the abandonment. But this portion of BNSF's line has been abandoned for as many as 25 years.

Back in 1988 Burlington Northern (BN) as it was known then, abandoned a rail line from what they now call (milepost) MP 75 in Ft. Collins to MP 79.0 in nearby Laporte, CO., in AB 6-306X. In 1988 BN did not formally abandon from milepost 75.0 to milepost 74.5 as they are trying to do in AB 6-494X. But as early as 1992 to 1995 the tracks were pulled from MP 75.0-74.5 and the tariffs were cancelled for the entire portion of the rail line from MP 74.5 to MP 79.0. As the Board is aware, there was no formal consummation of abandonment as the ICC/STB had not adopted regulations for abandonment consummation in the 1988 time frame.

Also a NITU was issued for AB 6-306X on 7/19/1989, and this NITU was amended on 12/28/2015 at the request of the City of Ft. Collins to vacate a portion of the NITU from MP 75.82 to MP 76.61 and BNSF agreed to the NITU vacation. If the Board will look at the attached aerial picture of Ft. Collins and the currently proposed abandonment, you will see that the right of way starting at the corner of N. Whitcomb St. and Elm St. (MP 75.0) angling down and to the right on an angle to the intersection of S. Madison St. and Cherry St. (MP 74.5) is completely grown up back to nature. The tracks have been removed for more than two decades according to property owners adjacent to this right of way. The switch to the main BNSF tracks has been removed also. You can see an apartment building has been built on the lower right end on the right of way and is notated as Dazbog Coffee Store although the

large building is a 12 unit apartment/office building. All the street crossings have been obliterated, and other structures have been built on the right of way. The BNSF mainline or industry track can be seen curving from the right side of the picture down and to the left across Cherry Street and then across Madison Street.

Also NARPO would like to bring to the Board's attention another problem with this abandonment and AB 6-306X. If you look again at the attached picture of Ft. Collins, at the upper left you will see a 1,000 foot by 800 foot light area with numerous large buildings in this area. This area is the City of Ft. Collins Utilities facility. Notice the right of way for the AB 6-306X abandonment goes right through the middle of the Utility facility area with many large buildings blocking any future use as a railroad right of way. This is a blatant disregard for STB and ICC rules pertaining to NITU future restoration of rail use. This Utility facility area is the specific part of the NITU that Ft. Collins wanted to preserve (MP 75.0 to MP 75.82) when they amended the NITU in their Petition to the STB on September 15, 2015. The utility facility was built many years ago. This is a blatant disregard for STB rules.

The STB should immediately vacate the whole NITU for AB 6-306X and sanction Ft. Collins and BNSF for their blatant disregard of the Board's rules and laws. BNSF is just as culpable as Ft. Collins as they should know what they agree to in these NITUs.

If the Board will remember, a few weeks ago, NARPO brought to the Board's attention another blatant disregard for Board rules in Bellevue, Washington in AB 6-463X and AB 6-464X and the NITUs issued to these abandonments. This time King County/Metro and BNSF colluded to block off a section of right of way for an overhead and at grade light rail system which completely blocked the whole 100 foot of right of way with light rail stations and concrete abutments so no future restoration of rail service would ever be possible. NARPO included pictures of this blockage, and interestingly there has been no response from King County/Metro or BNSF about NARPO's accusations.

NARPO's members are bringing to light many other blatant misuses of STB rules and laws pertaining to NITUs, and they will be forthcoming in future filings before the Board. NARPO would hope that the STB could monitor how these NITUs are really being misused by the railroads and trails groups to their own advantage and to the disadvantage of the tens of thousands of property owners who have to live with these things next to them.

In closing, NARPO requests The STB to not allow BNSF's Petition for Exemption and extension of consummation in AB 6-494X and for the STB to vacate any NITU for AB 6-306X as it has been cut off from the National Rail System when BN abandoned the MP 75.0 To MP 74.5 many years ago and also because the City of Ft. Collins has blocked the right of way so no further restoration of rail service is possible. The aerial picture is courtesy of Google Maps at:

<https://www.google.com/maps/place/Fort+Collins,+CO/@40.5954266,-105.0860216,799m/data=!3m1!1e3!4m5!3m4!1s0x87694a4590f030ad:0xa9b14228b4ab4082!8m2!3d40.5852602!4d-105.084423>

Sincerely yours,

Dick Welsh, Executive Director, NARPO

NARPO verifies that Karl Morrell at: karlm@karlmorell.com , BNSF's attorney in AB 6-494X and Darin Atterberry at: datteberry@fcgov.com Ft. Collins City Manager have received an email copy of this letter.

Signed-Richard Welsh for NARPO, dated October 14, 2018