



Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

Transportation & Public Construction Division
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210282
March 11, 2004

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Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

**Re: *In the Matter of Yakima Interurban Lines Assoc. – Adverse Abandonment
In Yakima County, Washington
AB Docket No. 600***

Dear Clerk:

Enclosed please find the original and one copy of a Protest of Washington State Department of Transportation and Declaration of Stephen Anderson on Behalf of Washington State Department of Transportation. Please conform the copy and return it to us in the enclosed, self-addressed stamped envelope.

Thank you very much for your cooperation.

Sincerely,

TERI METCALF
Legal Assistant for
JEANNE A. CUSHMAN
Assistant Attorney General

JAC:tim
Enclosures

cc: Sarah Wixson, w/enc.



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SURFACE TRANSPORTATION BOARD

Yakima Interurban Lines Association

NO. AB-600

Adverse Abandonment
Yakima County, WA

PROTEST OF WASHINGTON
STATE DEPARTMENT OF
TRANSPORTATION

COMES NOW the Washington State Department of Transportation (WSDOT) to protest the Petition for Adverse Abandonment filed by Kershaw Sunnyside Ranches, Inc.

WSDOT reviewed the Protest and Comment filed by Yakima County *et al.* and concurs in same.

WSDOT submits herewith the Declaration of Stephen Anderson in support of the Protest filed by Yakima County, which Declaration is also attached to the Yakima County Protest and Comment as Appendix 4. This Declaration contains WSDOT's statement regarding rehabilitation of the Naches Branch for freight service in the area, and WSDOT's statement regarding the effect of granting the petition for abandonment of one mile in the middle of the line.

DATED this 11th day of March, 2004.

A handwritten signature in cursive script, appearing to read "JACushman".

Jeanne A. Cushman, WSBA # 17505
Assistant Attorney General
State of Washington, Department of Transportation

PROTEST OF WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION

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SURFACE TRANSPORTATION BOARD

Yakima Interurban Lines Association

NO. AB-600

Adverse Abandonment
Yakima County, WA

DECLARATION OF STEPHEN
ANDERSON ON BEHALF OF
WASHINGTON STATE
DEPARTMENT OF
TRANSPORTATION

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I, Stephen Anderson, am the Rail Services Manager for the Rail Division of the Washington State Department of Transportation (WSDOT). I make this Declaration on the basis of my personal knowledge and of information gathered for me by my staff in our official capacities. I am making this Declaration on behalf of WSDOT for use by Yakima County in the above-referenced proceeding.

1. As indicated in the Joint Protest and Comments of Yakima County, *et al.*, Yakima County and WSDOT have developed a plan for rehabilitation of the Naches Branch as currently owned by Yakima Interurban Lines Association. Subject to appropriation from the Legislature and mutually agreeable contractual arrangements, WSDOT will provide an estimated \$200,000.00 in financial assistance for Yakima County to acquire Yakima Interurban Lines Association' interest in the Naches Branch and to clear the public and private liens on the title. WSDOT will assist with the legal and title work to convey the property free and clear to Yakima County. Subject to appropriation and mutually agreeable contractual arrangements, WSDOT will provide an estimated \$300,000.00 to complete rehabilitation of the Naches Branch. WSDOT calculates that these sums should be adequate both for acquisition and completion of rehabilitation.

DECLARATION OF STEPHEN
ANDERSON ON BEHALF OF
WASHINGTON STATE DEPARTMENT
OF TRANSPORTATION

2. WSDOT supports Yakima County's plan to acquire the line pursuant to an exemption from common carrier obligations, or pursuant to a railbanking order under 16 U.S.C. §1247(d), and then to arrange for an operator to provide freight common carrier service on the Naches Branch (pursuant to a modified certificate of public convenience and necessity under 49 C.F.R. § 1150.21 *et seq.* if the Naches Branch is railbanked). WSDOT has analyzed the potential for freight shipment on the Naches Branch, including discussions with shippers in the area, and has concluded that operation of the line for freight rail purposes is feasible under this plan.

3. WSDOT supports implementation of the plan to restore freight rail service on the Naches Branch. The Washington Legislature states its intentions and creates the state freight rail program with the following findings:

[T]he economy of the state will be best served by a policy of maintaining and encouraging a healthy rail freight system by creating mechanisms that keep rail freight lines operating if the benefits of the service outweigh the cost. Recognizing the implications of this trend for freight mobility and the state's economic future, the legislature finds that better freight rail planning, better cooperation to preserve rail lines, and increased financial assistance from the state are necessary to maintain and improve the freight rail system within the state.

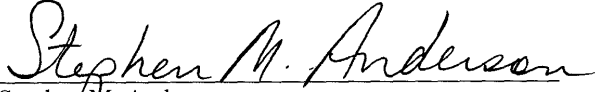
Revised Code of Washington 47.76.200

WSDOT opposes adverse abandonment of one mile in the middle of the Naches Branch as sought by Kershaw Sunnyside Farms. The one mile which Kershaw seeks to have abandoned is necessary to the operation of the entire Naches Branch. If the mile were abandoned, the remainder of the Naches Branch would have to be abandoned. WSDOT has performed a rough estimate of the cost for reconstruction of approximately one mile of track if the line has to be re-routed around the area which Kershaw has proposed for abandonment. The calculations are found on the attached spreadsheet. WSDOT estimates the cost of reconstruction to be

approximately \$974,480.00, assuming (without benefit of thorough investigation) no environmental impediments exist on the alternative property. That amount of money far exceeds the funds WSDOT expects to have available for rehabilitation of the Naches Branch, confirming that the one mile abandonment proposed by Kershaw is tantamount to abandonment of the entire Naches Branch. The end points for the abandonment as proposed by Kershaw are therefore deceptive and lack logical support and would constitute a defacto abandonment of the entire Naches Branch if granted.

4. WSDOT supports Yakima County's suggestion that the abandonment proceeding incorporate logical end points (i.e. the entire Naches Branch as owned by Yakima Interurban Lines Association); that the entire Naches Branch as owned by Yakima Interurban Lines Association be railbanked; that the Naches Branch be exempted from "offer of financial assistance" procedures; and that the Yakima County/WSDOT plan for rail rehabilitation be implemented. WSDOT concurs with Yakima County that the Surface Transportation Board either dismiss the entire proceeding as an unlawful segmentation, or modify the proceeding to apply to the entire Naches Branch as owned by the Yakima Interurban Lines Association. Should abandonment authorization be granted for the entire Naches Branch, then the Board should enter a Certificate of Interim Trail Use for the Naches Branch in response to the Declaration of Willingness filed by Yakima County and the consent to negotiate filed by Yakima Interurban Lines Association. This result will assist in preserving the line and restoring it to freight rail service.

I declare under penalty of perjury that the foregoing is true and correct.



Stephen M. Anderson
Rail Services Manager, Rail Office
Public Transportation & Rail Division
Washington State Department of Transportation

DATED this 11th day of March, 2004.

Naches Branch Spreadsheet
Estimated Costs to Reroute Segment of Line

UNIT COSTS SHEET		5-Mar-04	Naches Reroute Estimate		
		UNITS	UNIT COST	QUANTITY	TOTAL COST
I. EARTHWORK					
1. Clear and Grub		ACRE	\$500	6	\$3,000
2. Embankment		CY	\$20	0	\$0
3. Excavation		CY	\$10	4000	\$40,000
4. Rock Excavation		CY	\$50	0	\$0
5. Subballast		CY	\$12	2500	\$30,000
6. Ballast		CY	\$16	1500	\$24,000
II. TRACK CONSTRUCTION					
1. Ties (7 x 9 #3 Indus.)		EA	\$80	3000	\$240,000
2. Rail		NT	\$300	10	\$3,000
a. Relay rail - 90 lb.		EA	\$10	3000	\$30,000
c. Tie plates and spikes		EA	\$3	1500	\$3,750
d. Anchors		EA	\$3	1500	\$3,750
4. Culvert Crossings					
a. Major Culverts (>36" Diameter)		LF	\$80	0	\$0
b. Minor Culverts (<36" Diameter)		LF	\$40	100	\$4,000
5. Other Drainage		LS	\$10,000.00	1	\$10,000
III. ROADWAY					
1. At-Grade Crossing		TF	\$500	20	\$10,000
a. Concrete Panels		EA	\$100,000	0	\$0
b. Crossing Signals					
IV. UTILITY RELOCATION/ADJUSTMENT					
1. Misc. utility lines		LF	\$50	\$280	\$284,000
2. Highway guardrail protection		LF	\$15	\$280	\$79,200
			ITEMS SUBTOTAL		\$661,750
V. MOBILIZATION (8% of Items Subtotal)					
		LS	CONSTRUCTION SUBTOTAL	1	\$52,940
					\$714,690
VI. CONTINGENCIES (30%)					
		LS			\$107,204
VII. ENVIRONMENTAL MITIGATION (20%)					
		LS	By others		
VIII. ENGINEERING/ADMINISTRATION (7%)					
		LS			\$50,028
IX. CONSTRUCTION MANAGEMENT (6%)					
		LS			\$43,953
X. RIGHT OF WAY					
		ACRE	By others		\$58,605
XI. TAX (8.2%)					
				TOTAL	\$974,480