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CHARLES H. MONTANGE
ATTORNEY AT LAW
426 NW 162ND STREET
SEATTLE, WASHINGTON 98177
(206) 546-1936
FAX: (206) 546-3739



30 March 2004
(by fax to the attention of Pat Crawford
at 202-565-9002; original and ten copies
by U.S. Mail to STB)

Hon. Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

2/0509

Re: Yakima Interurban Lines -- Adverse Abandonment
-- in Yakima County, WA, AB 600

Dear Mr. Williams:

This letter, on behalf of Yakima County (a protestant in the above proceeding), is in response to the "motion and declaration for extension of time to reply" filed on behalf of adverse abandonment applicant Kershaw Sunnyside Ranches ("Kershaw").¹ In its motion, Kershaw states that its Reply is due on April 1. Kershaw seeks an extension until April 30, on the ground that its counsel must attend a relative whose health condition has deteriorated, and that alternative counsel cannot prepare a reply earlier than April 30 due to prior commitments. Pursuant to 49 C.F.R. § 1152.26, this Board's decision in this proceeding is due on or about May 20, only twenty days from Kershaw's proposed reply due date.

As Yakima County, et al., demonstrated in their Joint Protest and Comments filed on or about March 12, the adverse abandonment application filed by Kershaw is a prime example of an illegal segmentation for transportation, environmental and historic preservation purposes. The application accordingly must be dismissed, or alternatively, expanded to encompass logical termini [here, the entire Naches Branch as owned by Yakima Interurban Lines Association (YILA)]. This latter course will require re-noticing the proceeding, among other things. The main issue for Kershaw in reply, if it chooses to reply, is

¹ Yakima County per its counsel received a service copy of the motion by U.S. Mail on Monday, March 29. To counsel's knowledge, no effort was made to contact counsel for advance consent.

whether it wishes the proceeding dismissed or expanded. This issue is largely legal in nature, at least in the sense of not depending upon substantial new factual inquiries.

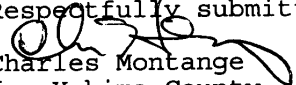
Yakima County nonetheless does not object to the health-based extension sought by Kershaw, provided, however, that the Board's timetable for processing abandonment applications set forth in 49 C.F.R. § 1152.26 and for filing "offers of financial assistance" as set forth in 49 U.S.C. § 10904(d) is also extended for whatever additional time this Board grants Kershaw for filing its Reply.

If this Board takes the position that it cannot extend the time for its initial decision and for OFA's as set forth in 49 C.F.R. § 1152.26 and 49 U.S.C. § 10904(d), then the month-long extension sought by Kershaw would be prejudicial to the County and other protestants. In addition, the extension sought by Kershaw would deprive this Board of sufficient time to consider the issues in reaching its decision. In that event, it should be shortened to no more than ten days or such other time as is reasonable in the circumstances to avoid the prejudice.

The County, YILA and other protestants are entitled to an opportunity to review the Reply (if any) filed by Kershaw in order to determine whether a responsive pleading or motion is appropriate, and to file such pleading in a timely fashion so it may be considered in a meaningful fashion by this Board. If Kershaw's reply is delayed until April 30, and this Board's decision remains due on or about May 20, there is simply insufficient time (a) for Yakima County or other interested parties to evaluate that reply, as well as to prepare, to file and to serve a responsive pleading, and (b) for this Board to consider such a pleading in a meaningful fashion. In all events, Yakima County questions whether twenty days is adequate time for this Board to reach a decision after close of pleadings in an abandonment application case.

Since the adverse applicant is the party seeking the extension, all subsequent deadlines should also be extended as a condition for granting the extension, both in order to relieve prejudice on other parties and in order to ensure that this Board has adequate time to consider the evidence and arguments.

Respectfully submitted,


Charles Montange
for Yakima County

cc. Counsel for Kershaw (ad. ab. applicant) (by fax)
Counsel for WsDOT (by fax)
Counsel for City of Yakima, YILA, Town of Naches