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December 18, 2006

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RE: City of Richmond Proposed Quiet Zone West II

Dear Sirs:

BNSF is in receipt of the City of Richmond's (City) letter dated December 7, 2006, regarding its notice to establish 'Quiet Zone West II.' The City is asking BNSF to commence observation of this proposed quiet zone on December 28, 2006. According to the initial Notice of Intent dated January 5, 2006 that included 'West II,' the proposed quiet zone consists of three crossings: Garrard Blvd (USDOT #029881Y), Cutting Blvd (USDOT #029884U) and Canal Blvd (USDOT #029885B). We do want to make it clear that BNSF is interested in cooperating with the City of Richmond in the creation of quiet zones as long as the quiet zones meet the requirements of FRA's Final Horn Rule (Rule), and as long as safety of residents of the City of Richmond using the crossings is taken into consideration.

BNSF is unable to determine whether FRA can qualify this proposed quiet zone under the Final Horn Rule for the following reasons:

- 1) The City has stated that Canal Blvd has an SSM consisting of non-traversable curb medians. Photographs of Canal Blvd taken 12/12/06 show a gap that exceeds the 12-inch minimum between the tip of the gate arm and the face of the curb. (See Attachment A) According to Appendix A (f) of FRA's Final Horn Rule, one requirement of non-traversable curb medians

as an SSM is that the tip of the gate arm must be one foot or less as measured horizontally from the face of the curb. This requirement has obviously not been met with the medians the City has constructed.

- 2) The City needs to designate by engineering station the outer limits of the proposed quiet zone so BNSF and FRA can determine if it meets the minimum ½ mile requirement or if it impermissibly overlaps with another quiet zone. This issue was raised on not only on our initial comment letter dated 3/6/06 but again on our comment letter dated 9/1/06;
- 3) It appears that neither Canal Blvd nor Cutting Blvd have constant warning time circuitry as required by the Rule for New Quiet Zones: (See Appendix C Part 222 §II (5)):


Every public crossing within the quiet zone must be equipped with active warning devices comprising both flashing lights and gates. The warning devices must be equipped with power out indicators. **Constant warning time circuitry is also required unless existing conditions would prevent the proper operation of the constant warning time circuitry.**

BNSF further believes FRA should require, as a condition of establishing the quiet zone and as is required by the Horn Rule for new quiet zones, the installation of constant warning time circuitry in view of the adjacent area and pedestrian and other traffic serving the school. It is possible to effectively install constant warning time circuitry and BNSF has offered to provide the City with cost estimates. Again, this issue was raised in both our 3/6/06 comment letter and again in our 9/1/06 comment letter.

We strongly suggest, as we did on 9/1/06, the FRA require an on the ground diagnostic review due to the unique characteristics of the crossings in the proposed quiet zone.

Due to the aforementioned reasons, BNSF is not able to commence observation of this proposed quiet zone until the City has complied with the guidelines set forth in FRA's Final Horn Rule or until requested to do so by the FRA.

Regards,



W. Douglas Werner

WDW/nh

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