

Our Ref:
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By email

5th February 2015

Dear Bill

Application for directions: proposed 27th supplemental agreement to the track access contract between Network Rail Infrastructure Limited and Freightliner Heavy Haul Limited

We are in receipt of Gordon Herbert's email of the 2nd February and the attached representation from GB Railfreight Limited (GBRf). Here is our formal response to that representation.

Additional Rights

Freightliner agrees to remove all Y references in the Rights Table against the services listed by GBRf in their Annex A.

6L44 - disagree with GBRf. Network Rail has agreed to sell Freightliner Level 2 Rights, as per their letter to ORR dated 21st January. The corresponding Aggregate Industries path has not been used for three years and runs to a terminal (Bow Olympics) that is now closed. Therefore Freightliner is not being replaced as the incumbent and the path has been used 100% for another customer.

GBRf: Although this right is subject to an access dispute hearing (ADA 21), GBRf notes that 6L44 is likely to be granted a Level 2 Right and could therefore be moved to a different train slot, not now clashing with GBRf's 6L84 [SX] Level 1 Right. No further issues.

6L59 - disagree with GBRf. Agreement has been reached with GBRf and Network Rail on the outstanding disputed issues relating to ADA22. Network Rail's letter to ORR dated 27th January refers. Freightliner has submitted a bid to Network Rail that allows 6L59 to run in a wholly separate, rules compliant path.

GBRf: At the time of my response, issues relating to ADA 22 dispute had not been resolved. Agreement has now been reached and GBRf has no issues as long as the FLHH right and train slot offered is separate to GBRf's 6O59 & 6O05 slots.

6L26 - disagree with GBRf. Agreement has been reached with GBRf and Network Rail on the outstanding disputed issues relating to ADA22. Network Rail's letter to ORR dated 27th January refers. Freightliner has submitted a bid to Network Rail that allows 6L59 to run in a wholly separate, rules compliant path. We agree that the destination stannox should be 52608 in the Rights Table as this is the Strategic Freight Site that Freightliner has claimed for the new traffic.

GBRf: At the time of my response, issues relating to ADA 22 dispute had not been resolved. Agreement has now been reached and GBRf has no issues as long as the FLHH right and train slot offered is separate to GBRf's 6L25, 6L26, 6M25 & 6M28 slots.

6M32 - Network Rail's letter to ORR dated 27th January refers. We consider this is resolved and the service can be removed from the table.

GBRf: This is not resolved. Having made an agreement with Freightliner for this path to become a GBRf path, as part of the Aggregate Industries transfer of traffic, Freightliner changed its mind and withdrew this path from the agreement as it needed it. GBRf is now not clear whether or not Freightliner is keeping this train slot. More clarity is required.

6M84 - Network Rail's letter to ORR dated 27th January refers. We consider that this matter is resolved and the service can remain in the Rights Table. The origin stannox (56208) for the service is correct as this is the Strategic Freight Site that Freightliner has claimed for the new traffic.

GBRf: At the time of my response, issues relating to ADA 22 dispute had not been resolved. Agreement has now been reached and GBRf has further no issues.

Relinquished Rights

It is unfortunate that a small number of formatting errors have crept into that part of the Rights Table relating to those rights being relinquished but, as they are rights that Freightliner are relinquishing, our view is that the errors should have no effect on the application for directions. Similarly as the Colnbrook Lafarge rights have already transferred to GBRf (listed by GBRf as Colnbrook not Thorney Mill) this should not affect the application.

GBRf: GBRf was told that the Colnbrook paths had no rights and these train slots were acquired from FLHH through the Part D process. GBRf has acquired no Level 1 rights between Bardon Hill and Colnbrook. These rights have not yet transferred to GBRf but need to do so.

This concludes our response. Please do not hesitate to contact should you require any further clarification. None of this letter is confidential.

Yours sincerely

Chris Wilson

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Cc: Gordon Herbert, ORR
Tom Causebrook, Network Rail
Andy Saunders, Network Rail
Ian Kapur, GB Railfreight