

release UP from past and future liability for reparations while guaranteeing it compensation that is acceptable in view of the unique characteristics of these commodities and the other benefits of the Agreement.

Movants point out that the Agreement is based on numerous compromises which balance the needs of the parties and resolve difficult and complex issues that would otherwise take years to litigate (e.g., common carrier obligation, market dominance, reasonableness standards, and such costing elements as liability exposure, costs for extra and dedicated train services, and safety precautions). They claim that the Agreement will bring certainty over a broad range of crucial operational and rate issues while providing flexibility (e.g., updating mechanisms, renegotiation provisions, and dispute resolution) over the long term to minimize the potential for future disputes and accommodate changing needs and technologies.

In the movants' view, the Agreement: (1) Is in the public interest because it shifts the transportation focus from controversy and confrontation to cooperation benefitting national goals for the safe handling and storage of these commodities; (2) is consistent with the national rail transportation policy which encourages reliance on competition and the demand for service to establish reasonable rates and seeks to minimize Federal regulatory authority, promote an efficient rail transportation system, and foster sound economic conditions in transportation; and (3) affirms the Board's policy favoring the private settlement of disputes.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The parties to this proceeding and interested persons must comply with the procedural schedule and requirements outlined above.

2. This decision is effective on November 5, 2004.

Decided: November 1, 2004.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 04-24736 Filed 11-4-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-6 (Sub-No. 424X)]

The Burlington Northern and Santa Fe Railway Company—Abandonment Exemption—in Dawson and McCone Counties, MT

The Burlington Northern and Santa Fe Railway Company (BNSF) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 43.41-mile line of railroad extending between milepost 7.00 near Glendive and milepost 50.41 in Circle, in Dawson and McCone Counties, MT. The line traverses United States Postal Service Zip Codes 59330, 59339, 59315, and 59215.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 7, 2004, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 CFR

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 15, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 26, 2004, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to BNSF's representative: Michael Smith, Freeborn & Peters, 311 S. Wacker Drive, Suite 3000, Chicago, IL 60606-6677.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

BNSF has filed an environmental report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 12, 2004. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by November 5, 2005, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: October 27, 2004.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

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² Effective October 31, 2004, the filing fee for an OFA increases to \$1,200. See *Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2004 Update*, STB Ex Parte No. 542 (Sub-No. 11) (STB served Oct. 1, 2004).