

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-573X

TRINIDAD RAILWAY, INC.—ABANDONMENT EXEMPTION—
IN LAS ANIMAS COUNTY, CO

Decided: February 28, 2002

In a decision served on December 12, 2001, in this proceeding, the Board, *inter alia*, directed Kern Valley Railroad Company (Kern Valley): (1) to disclose to Rail Ventures, Inc. (Rail Ventures) the purchase price it paid for a 28-mile segment of rail line in Las Animas County, CO, between milepost 2.0 at Jansen and the end of its line at milepost 30.0; and (2) to grant Rail Ventures access to inspect the line. On December 5, 2000, Rail Ventures had filed an offer of financial assistance (OFA) under 49 U.S.C. 10904 proposing to buy the line from Kern Valley. The Board directed Kern Valley to disclose the purchase price and to afford Rail Ventures access to the line after the latter had demonstrated that both were essential to the OFA process in this case.

Ordering paragraph 5 of the December 12 decision reads, in pertinent part, as follows:

If Rail Ventures and Kern Valley cannot agree on a purchase price for the line, either party may request the Board to establish the terms and conditions for the purchase on or before a date 20 days after the date Rail Ventures receives the relevant purchase price information and is granted access to the line.

On February 25, 2002, Rail Ventures filed a letter asking the Board to clarify the applicable deadline for it to file a “set terms” request with the agency. Rail Ventures contends that the 20-day period referred to in the Board’s decision should begin with the date Rail Ventures physically visits the rail line to begin its inspection which, according to Rail Ventures, was expected to be February 26, 2002. Rail Ventures indicates that Kern Valley disagrees with its interpretation of the Board’s language.

Kern Valley filed a letter in response, also on February 25, in which it notes that, on February 6, 2002, it submitted a letter to the Board, and sent a copy to Rail Ventures, indicating that Kern Valley was ready, willing and able to afford Rail Ventures immediate access to the line. It asserts that the actual inspection was delayed at Rail Ventures’ request, but adds that Kern Valley would not oppose a reasonably brief extension of the date the “set terms” request would be due.

Rail Ventures' interpretation of the language in ordering paragraph 5 is consistent with the Board's intention that Rail Ventures have a reasonable period of time in which to inspect Kern Valley's line, negotiate with the latter over the purchase price and terms, and, if unsuccessful, file a request that the Board set the price and terms. Accordingly, March 18, 2002 (20 days from the date the line inspection began), is the deadline for submission by either party of a "set terms" request.¹

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 have until March 18, 2002, or 20 days from February 26, 2002, to request that the Board establish the terms and conditions for the purchase of the line.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

¹ On February 26, 2002, Rail Ventures filed a letter requesting an extension, if necessary, of the pertinent deadline until March 18, 2002. In light of the action taken here, that request is moot.