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SEC

SERVICE DATE – DECEMBER 19, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35148

KING COUNTY, WA—ACQUISITION EXEMPTION—BNSF RAILWAY COMPANY

Decided: December 18, 2008

By petition filed on September 22, 2008, King County, WA (King County), seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to acquire from BNSF Railway Company (BNSF) the residual common carrier rights and obligations, including the right to reinstitute rail service in the future, over approximately 25.45 miles of rail line in King County. The rail line consists of the following three segments: (1) a 7.30-mile rail line between milepost 0.0, at Woodinville, and approximately milepost 7.30, at Redmond; (2) a 5.60-mile rail line between milepost 5.00, at Kennydale, and milepost 10.60, at Wilburton; and (3) a 12.55-mile rail line between milepost 11.25, near Wilburton, and milepost 23.80, at Woodinville.¹

King County filed a request for the issuance of a notice of interim trail use (NITU) for each of these segments under the National Trails System Act, 16 U.S.C. 1247(d), and 49 CFR 1152.29, and states that it has negotiated a Trail Use Agreement with BNSF. As part of the proposed transactions, the real property and physical assets of the rail segments are being acquired by the Port of Seattle (Port) from BNSF. The Port will then grant a public multipurpose easement to permit King County to fulfill its trail use responsibilities.²

The petition for exemption raises issues that require consideration by the Board. By this decision, the Board is instituting a proceeding under 49 U.S.C. 10502(b) to consider King County's petition. At this time, there does not appear to be a need for the parties to submit additional evidence.

¹ These segments were subject to the following proceedings, respectively: BNSF Railway Company—Abandonment Exemption—in King County, WA, STB Docket No. AB-6 (Sub-No. 463X) (STB served Sept. 26, 2008, and Oct. 27, 2008); BNSF Railway Company—Abandonment Exemption—in King County, WA, STB Docket No. AB-6 (Sub-No. 464X) (STB served Sept. 26, 2008, and Oct. 27, 2008); and BNSF Railway Company—Abandonment Exemption—in King County, WA, STB Docket No. AB-6 (Sub-No. 465X) (STB served Aug. 29, 2008, and Nov. 28, 2008).

² A copy of the Trail Use Agreement and the Public Multipurpose Easement were submitted with King County's petition.

It is ordered:

1. Under 49 U.S.C. 10502(b), a proceeding is instituted.
2. This decision is effective on its service date.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan
Acting Secretary