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SERVICE DATE – JANUARY 14, 2010

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-1022 (Sub-No. 1X)

ARIZONA & CALIFORNIA RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN SAN BERNARDINO AND RIVERSIDE COUNTIES, CA

Decided: January 13, 2010

By petition filed on March 12, 2009, Arizona & California Railroad Company (ARZC) sought an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a 49.40-mile rail line (the line) between milepost 0.0 at Rice and milepost 49.4 at Ripley, in San Bernardino and Riverside Counties, CA. Notice of the exemption filing was served and published in the Federal Register on April 1, 2009 (74 FR 14682). The abandonment exemption was scheduled to become effective on July 30, 2009, unless stayed by the Board or an offer of financial assistance (OFA) was filed by July 10, 2009.

BG&CM Railroad, Inc. (BG&CM) filed an OFA on July 10, 2009. By decision served on July 15, 2009, the Board rejected (without prejudice to refilling) BG&CM's OFA because BG&CM did not provide sufficient evidence of financial responsibility. On July 22, 2009, BG&CM refilled an OFA in the form of a purchase offer for the line in its entirety for \$1,830,000.

In a decision served July 29, 2009, BG&CM was found financially responsible and the effective date of the exemption authorizing the abandonment was postponed to permit the OFA process to proceed. The decision also made any request by the parties to establish the terms and conditions of the purchase due by August 21, 2009.

On August 10, 2009, ARZC filed a motion for extension of the procedural schedule. By letter filed on August 13, 2009, BG&CM stated that it did not oppose the extension request. Consequently, in a decision served August 21, 2009, the Board granted the motion and extended the deadline for the parties to request that the Board establish terms and conditions of a purchase to October 28, 2009.

On October 27, 2009, BG&CM filed a further request for extension of time to allow it to appraise the fair market value of the parcels in the right-of-way of the line for which ARZC claimed marketable fee simple title. In a decision served October 28, 2009 (October Decision), the Board extended the deadline for the parties to request that the Board establish terms and conditions of a purchase to December 18, 2009.

On December 18, 2009, BG&CM's counsel filed a letter indicating that he would not be filing a "set terms" request on behalf of his client. ARZC also did not file such a request. Therefore, by the By December 18, 2009 deadline, the parties had not reached an agreement and neither party had requested that the Board set terms and conditions. Accordingly, pursuant to ordering paragraph 2 of the October Decision, that decision is vacated to the extent it postponed the effective date of the abandonment, the OFA process will be terminated, and the abandonment exemption will be effective on the service date of this decision.

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

It is ordered:

1. The OFA process in this proceeding is terminated.
2. The October Decision is vacated to the extent it postponed the effective date of the abandonment to permit the OFA process to proceed. The abandonment will be effective on the service date of this decision, subject to the previously imposed conditions.
3. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.