

32902
DO

SERVICE DATE - AUGUST 13, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-598X

BHP NEVADA RAILROAD COMPANY–DISCONTINUANCE OF
SERVICE EXEMPTION–IN ELKO AND WHITE PINE COUNTIES, NV

Decided: August 6, 2002

BHP Nevada Railroad Company (BHP Nevada) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments and Discontinuances to discontinue service over 146 miles of railroad between milepost 0.0 in Cobre and milepost 146.1 in Keystone, in Elko and White Pine Counties, NV. Notice of the exemption was served and published in the Federal Register on May 24, 2002 (67 FR 36667-68). The exemption became effective on June 25, 2002.

On June 12, 2002, the State of Nevada Department of Transportation (NVDOT), filed a letter requesting an extension of time to allow the Federal Railroad Administration (FRA) to prepare a report on possible net salvage values and contingent interest repayment responsibility for LRFA grant number NV-94 – a grant evidently made to the predecessor of BHP Nevada. NVDOT’s concern relates to the possible need to resolve certain matters in connection with the grant if discontinuance of service were to lead to abandonment.¹

On July 2, 2002, BHP Nevada filed a reply in opposition to NVDOT’s request. BHP Nevada states that there is no reason for postponement of the effective date, because any repayment provisions for the grant are, according to NVDOT’s letter, predicated on BHP Nevada’s seeking to abandon the line.²

¹ On June 28, 2002, BHP Nevada gave notification to the Board and NVDOT that it had discontinued service over the line.

² BHP Nevada notes that the referenced grant was entered into by NVDOT with a company called Northern Nevada Railroad Corporation in 1994 and provided that a payback provision was to remain in effect for 5 years from the completion of a rehabilitation project. BHP Nevada further states that the work was completed prior to 1996 when BHP Nevada became the operator of the line, and thus that it appears that there no longer is any payback obligation. BHP Nevada adds that FRA and/or NVDOT can always proceed to enforce any contractual repayment obligation that may exist on BHP

(continued...)

In this proceeding, BHP Nevada has been authorized to discontinue service over, but not to abandon, the line of railroad. Therefore, there is neither a basis nor a need for the relief sought by NVDOT.

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

It is ordered:

1. NVDOT's extension request is denied.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

²(...continued)
Nevada's part regardless of whether BHP Nevada has consummated discontinuance of unprofitable operations.