

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33200

CITIES OF AUBURN AND KENT, WA.--PETITION FOR
DECLARATORY ORDER--BURLINGTON NORTHERN RAILROAD COMPANY--
STAMPEDE PASS LINE

Decided: January 10, 1997

On October 11, 1996, the Cities of Auburn and Kent, WA (Cities) filed a petition for declaratory order to determine whether the ICC Termination Act of 1995, 49 U.S.C. 10101, et seq, and the National Environmental Policy Act, 49 U.S.C. 4321, et seq, preempt state and local environmental, land and building use permitting authority and state and local authority under the Washington State Environmental Policy Act over proposed improvements by the Burlington Northern Railroad Company (BNRR) to its Stampede Pass Line. The Cities filed a supplemental petition on November 7, 1996. BNRR filed a reply on November 27, 1996. On December 13, 1996, the Cities filed a reply to BNRR's reply.

On December 31, 1996, BNRR filed a motion to strike the Cities' December 13, 1996 filing as a reply to a reply which is not permitted under 49 CFR 1104.13(c). Alternatively, BNRR requests a 20-day extension of time to respond, claiming that it received the Cities' filing at the beginning of the holiday season and that it needs to consult with individuals who were not available at that time to prepare its response.

BNRR's motion to strike will be denied. The Cities' reply will be accepted in the interest of a more complete record. However, BNRR will be granted a 20-day extension to file a response to the Cities' reply.

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

It is ordered:

1. BNRR's motion to strike is denied.
2. BNRR may respond to the Cities' filing on or before January 22, 1997.
3. This decision is effective on the date served.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary