

34014
SEC

SERVICE DATE - SEPTEMBER 16, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33740

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY—PETITION
FOR DECLARATION OR PRESCRIPTION OF CROSSING, TRACKAGE, OR JOINT USE
RIGHTS

Decided: September 15, 2003

By a decision served on May 13, 2003, the Board, *inter alia*, declared that The Burlington Northern and Santa Fe Railway Company (BNSF) is entitled under 49 U.S.C. 10901(d) to cross track owned and operated by the Keokuk Junction Railway Company (KJRY) near Keokuk, IA, to access BNSF's Mooar Line. The decision also directed the parties immediately to begin negotiations on a new crossing agreement and stated that, if the parties were unable to agree on compensation or other crossing terms within 30 days of the decision's effective date, the dispute should be submitted to the Board for a determination of terms under 49 U.S.C. 10901(d)(2). The decision became effective on June 12, 2003. By decisions served on July 21, 2003, and August 13, 2003, the parties' joint requests for extensions to continue negotiations were granted, with the latest request expiring on September 12, 2003.

On September 11, 2003, BNSF and KJRY jointly requested a further extension of time until October 13, 2003, to continue negotiations. The request indicated that the parties have been negotiating in good faith, but have not completed their negotiations. The parties' request is reasonable and consistent with the Board's preference for private-sector negotiation and resolution of disputes. Therefore, the request will be granted.

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

It is ordered:

1. The deadline for submission of any disputed compensation or other crossing terms for Board resolution is extended until October 13, 2003.

2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary