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SERVICE DATE - SEPTEMBER 1, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-573X

TRINIDAD RAILWAY, INC.–ABANDONMENT EXEMPTION–
IN LAS ANIMAS COUNTY, CO

STB Docket No. AB-6 (Sub-No. 388X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY–
DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION–
IN LAS ANIMAS COUNTY, CO

STB Docket No. AB-33 (Sub-No. 160X)

UNION PACIFIC RAILROAD COMPANY–DISCONTINUANCE OF TRACKAGE RIGHTS
EXEMPTION–IN LAS ANIMAS COUNTY, CO

[REQUEST FOR WAIVER OF 49 CFR 1152.50(d)(1)]

Decided: August 31, 2000

By petition filed August 25, 2000, Trinidad Railway, Inc. (Trinidad), The Burlington Northern and Santa Fe Railway Company (BNSF), and the Union Pacific Railroad Company (UP) (collectively, applicants) jointly request waiver of the requirements of 49 CFR 1152.50(d)(1) in the above dockets.

Applicants state that they intend to file with the Board on September 1, 2000, a notice of exemption under 49 CFR 1152.50 for Trinidad to abandon, and for BNSF and UP to discontinue trackage rights over, an out-of-service rail line from milepost 2.0 at Jensen (west of Trinidad), to the end of the line at the former New Elk Mine at milepost 30.0 (east of Stonewall), a distance of 30.0 miles in Las Animas County, CO.

Trinidad states that on August 18, 2000, it notified appropriate agencies of its intent to file the notice of exemption, but that, through inadvertence, it did not notify the Public Utility Commission of Colorado (COPUC). Trinidad states that, upon learning of the omission, it wrote to the executive director of COPUC advising him of the proposed abandonment, and transmitted a copy of the notification letter by facsimile and by first-class mail. Trinidad further states that

the executive director advised it by telephone that he had received the facsimile and that he would not object to applicants' filing the notice of exemption sooner than the rules provide.

For these reasons, applicants request that the Board waive the requirements of 49 CFR 1152.50(d)(1) insofar as it requires that an out-of-service rail line abandonment applicant wait 10 days after filing the requisite notification letter before submitting its notice of exemption.

The waiver request will be granted. COPUC has received notice of the proposed abandonment/discontinuance of trackage rights and does not object to the shorter notice period. All other appropriate agencies have been provided proper notice pursuant to Board regulations. Accordingly, none of these agencies will be prejudiced by approval of the sought waiver.

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

It is ordered:

1. The petition for waiver is granted.
2. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary