

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42088

WESTERN FUELS ASSOCIATION, INC., AND
BASIN ELECTRIC POWER COOPERATIVE

v.

BNSF RAILWAY COMPANY¹

Decided: February 2, 2005

In connection with this proceeding involving a complaint challenging the reasonableness of the defendant railroad's rates for transportation of coal, complainants Western Fuels Association, Inc., and Basin Electric Power Cooperative (collectively, WFA) filed, on January 14, 2005, a motion to compel defendant BNSF Railway Company (BNSF) to provide documents responsive to WFA's Requests for Production of Documents numbers 3 and 104(a). BNSF replied in opposition to the motion on January 21, 2005.

Pursuant to the expedited discovery rules at 49 CFR 1114.31,² the Board staff convened a discovery conference on January 27, 2005, to explore whether the parties could resolve this matter and thus avoid the need for a ruling on the motion to compel. This was the first discovery conference overseen by Board staff pursuant to the new provisions at 49 CFR 1114.31(a)(3).

During the course of the conference, the parties settled the disputes related to the motion to compel. Accordingly, on January 28, 2005, WFA notified the Board that it wished to withdraw its motion.

¹ Effective January 20, 2005, defendant changed its name from The Burlington Northern and Santa Fe Railway Company to BNSF Railway Company. The title of this proceeding has been modified accordingly.

² The provisions at 49 CFR 1114.31(a)(1)-(4) were recently promulgated pursuant to Procedures to Expedite Resolution of Rail Rate Challenges to Be Considered Under the Stand-Alone Cost Methodology, STB Ex Parte No. 638 (STB served Apr. 3, 2003, and published Apr. 9, 2003 (68 FR 17312)).

The Board is pleased that, through its new discovery rules, it could assist the parties in negotiating a mutually acceptable resolution of this dispute. WFA's request to withdraw its motion to compel 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. WFA's request to withdraw its motion to compel of January 14, 2005, is granted.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary