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SERVICE DATE - MAY 3, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-564

CAMAS PRAIRIE RAILNET, INC.—ABANDONMENT—IN LEWIS, NEZ PERCE, AND
IDAHO COUNTIES, ID
(BETWEEN SPALDING AND GRANGEVILLE, ID)

Decided: April 28, 2004

This decision clarifies the status of a 1-mile segment of the line for which a certificate of interim trail use (CITU) had previously been issued.

By decision and CITU served on September 13, 2000, Camas Prairie RailNet, Inc. (CSPR) was granted authority under 49 U.S.C. 10903 to abandon a line of railroad known as the Grangeville Line, extending from milepost 0.00 near Spalding to milepost 66.8, the end of the track, near Grangeville, in Lewis, Nez Perce, and Idaho Counties, ID. The CITU provided a 180-day period for the Nez Perce Tribal Executive Committee to negotiate an interim trail use/rail banking agreement with CSPR for the right-of-way (ROW). The negotiating period was subsequently extended to June 10, 2001. On May 15, 2001, the Board issued a second CITU, authorizing the Camas Prairie Trail Conservancy (the Conservancy) to negotiate with CSPR and to serve as a trail user. On January 6, 2003, the second CITU was vacated and replaced by a third CITU that substituted BG & CM Railroad, Inc. (BG & CM), in lieu of the Conservancy as the interim trail manager.¹

On September 11, 2003, BG & CM filed a petition in STB Finance Docket No. 34399, BG & CM Railroad, Inc.—Exemption From 49 U.S.C. Subtitle IV, seeking an exemption under 49 U.S.C. 10502 from certain requirements of 49 U.S.C. Subtitle IV to allow reactivation of rail service on a 52-mile portion of the 66.8-mile rail line that had been authorized for abandonment in this proceeding. BG & CM also sought to vacate the CITU for the portion of the line from MP 0.0 to MP 52.0 where the proposed rail service would take place. In addition to its petition, on

¹ CSPR, the Conservancy, and BG & CM had jointly requested that the second CITU be vacated and the third CITU issued in its place by petition filed on December 18, 2002. In that same petition, the Board was notified that CSPR had transferred ownership of the subject track and right-of-way to BG & CM.

September 16, 2003, BG & CM filed: (1) a notice of exemption in STB Finance Docket No. 34398, BG & CM Railroad, Inc.–Acquisition and Operation Exemption–Camas Prairie RailNet, Inc., to acquire and operate CSPR’s abandoned line, and (2) a motion to dismiss the notice of exemption. That exemption became effective on September 23, 2003.

In a decision served on October 17, 2003 (October 17 Decision), the Board granted BG & CM’s petition for exemption in STB Finance Docket No. 34399 under 49 U.S.C. 10502 from the requirements of 49 U.S.C. Subtitle IV pertaining to its acquisition and operation of the line, subject to certain conditions. The October 17 Decision also granted BG & CM’s motion to dismiss its notice of exemption in STB Finance Docket No. 34398, and vacated the CITU between mileposts 0.0 and 52.0 (but not between mileposts 52.0 and 66.8).² The Board reserved jurisdiction to reissue a CITU between mileposts 0.0 and 52.0 if BG & CM ceased service and a CITU request was timely made.

By letter-petition filed on March 5, 2004, and amended on March 8, 2004, CSPR informed the Board that BG & CM did not acquire the entire ROW authorized for abandonment in this proceeding, but only the portion between MP 1.0 and MP 66.8. CSPR retained ownership of the 1-mile segment between MP 0.0 and MP 1.0, which it subsequently sold, along with its other rail assets, to Great Northwest Railroad, Inc. (GNR).³ CSPR requests that the Board vacate the CITU between mileposts 0.0 and 1.0 in the event BG & CM ceases service on the line. On March 16, 2004, BG & CM confirmed that GNR is now the owner and operator of the 1-mile segment between mileposts 0.0 and 1.0, stated that the CITU for that segment has already been vacated and argued that it should remain so, and maintained that the abandonment proceeding should be dismissed or the abandonment authorization should be allowed to expire unconsummated.

As indicated, the CITU for the 1-mile segment of line between mileposts 0.0 and 1.0 has been vacated in the October 17 Decision. To remove any uncertainty about the status of the CITU for the 1-mile segment (possibly arising from the fact that CSPR and not BG & CM owned the segment at that time and the decision vacating the CITU for that segment was not issued in this abandonment docket), however, this decision confirms that the CITU has been vacated for the line between MP 0.0 and MP 1.0 and clarifies that any cessation of service by BG & CM over property it owns would have no relevance to the 1-mile segment now owned and operated by GNR. Indeed, only an abandonment authorization for GNR would trigger a possible future CITU or notice of interim trail use opportunity for rail banking the 1-mile segment. Finally, because

² Notice of the decision was published in the Federal Register on October 23, 2003 (68 FR 60775).

³ See Great Northwest Railroad, Inc.–Acquisition and Operation Exemption–Camas Prairie RailNet, Inc., STB Finance Docket No. 34474 (STB served Mar. 19, 2004).

CSPR's abandonment authorization has been mooted by its sale of the line to GNR and BG & CM, there is no reason to address the status of that abandonment further.

As clarified in this decision, the status of the line from milepost 0.00 to milepost 66.8 is as follows: (1) GNR is the owner and operator of the segment between mileposts 0.0 and 1.0, and the CITU for that segment has been vacated; (2) BG & CM is the owner and operator of the segment between mileposts 1.0 and 52.0 and the CITU for that segment has been vacated (although the Board reserves jurisdiction to reissue a CITU if BG & CM ceases service between mileposts 1.0 and 52.0 and a CITU request is timely made); and (3) BG & CM is the owner and interim trail manager of the segment of the line between mileposts 52.0 and 66.8 that continues to be rail banked.

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

It is ordered:

1. The status of the 1-mile segment between mileposts 0.0 and 1.0 is clarified as described in this decision.
2. This decision is effective on its service date.

By the Board, Chairman Nober.

Vernon A. Williams
Secretary