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SEC

SERVICE DATE - FEBRUARY 12, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33853

CEMEX USA—PETITION FOR DECLARATORY ORDER—THE  
BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Decided: February 9, 2001

At the request of Cemex USA (Cemex), the Board instituted this declaratory order proceeding and issued a procedural schedule in a decision served on April 10, 2000. On July 11, 2000, Cemex and The Burlington Northern and Santa Fe Railway Company (BNSF) jointly notified the Board that they had tentatively agreed to a settlement, and a decision was served on July 12, 2000, granting Cemex a 30-day extension to file its rebuttal statement. On August 11, 2000, Cemex and BNSF requested that Cemex's rebuttal due date be held in abeyance for an indefinite period of time to give them an opportunity to finalize the settlement. That request was granted in a decision served that same day.

On January 29, 2001, Cemex and BNSF filed a joint motion to dismiss the proceeding with prejudice. They state that an Agreement of Purchase and Sale was signed on November 2, 2000, that an Industry Track Agreement was executed on December 12, 2000, and that the sale was closed, and the disputed track was transferred, on December 28, 2000. Under the circumstances, their joint motion will be granted and the proceeding will be discontinued.

It is ordered:

1. This declaratory order proceeding is discontinued with prejudice.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary