

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 379X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY—  
ABANDONMENT EXEMPTION—IN GARFIELD AND LOGAN COUNTIES, OK

Decided: October 23, 2009

On October 27, 1998, the Board at the request of The Burlington Northern and Santa Fe Railway Company (BNSF)<sup>1</sup> and the Oklahoma Department of Transportation (ODOT) issued a Decision and Notice of Interim Trail Use or Abandonment (NITU) for the 42.80-mile rail line (Line) between milepost 73.60 near Fairmont and milepost 116.40 near Guthrie, in Garfield and Logan Counties, OK.<sup>2</sup> Shortly thereafter, BNSF and ODOT entered into an interim trail use/rail banking Agreement.

On August 31, 2009 ODOT and Montoff Transportation Company LLC (Montoff) (jointly, movants) filed a motion pursuant to 49 CFR 1152.29(f) requesting that the Board vacate the existing NITU, and issue a replacement NITU allowing Montoff to substitute for ODOT as interim trail manager for the Line. Montoff submitted a Statement of Willingness to Assume Financial Responsibility for the Line, and movants indicated that the transfer of responsibility for the Line is intended to occur on September 30, 2009, or as soon thereafter as final environmental reviews are complete. Montoff, according to movants, intends to use the Line initially for rail purposes and ultimately as a line of railroad.

BNSF filed a reply in opposition to the motion to substitute trail managers on September 3, 2009, and ODOT filed a motion for leave to supplement the record and supplementary information on September 17, 2009. In a motion filed on October 14, 2009, movants request that the request for substitution be held in abeyance. They state they are authorized by BNSF to represent that Montoff and BNSF have reached an agreement in principle under which BNSF would consent to the proposed substitution, that the parties are drafting an agreement to that effect, and that the agreement should be completed shortly.

The motion to hold this proceeding in abeyance is reasonable and consistent with the Board's preference for private-sector negotiation and resolution of disputes, and will be granted.

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<sup>1</sup> Now BNSF Railway Company.

<sup>2</sup> Notice of the exemption was served and published in the Federal Register on May 6, 1998 at 63 FR 25132-33.

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

It is ordered:

1. ODOT's motion for leave to supplement the record is granted.
2. The motion to hold this proceeding in abeyance is granted.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary