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SEC

SERVICE DATE - NOVEMBER 7, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33740

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY—PETITION
FOR DECLARATION OR PRESCRIPTION OF CROSSING, TRACKAGE, OR JOINT USE
RIGHTS

STB Finance Docket No. 33740 (Sub-No.1)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY—
PETITION FOR DETERMINATION OF COMPENSATION AND OTHER TERMS

Decided: November 6, 2003

By a decision served on May 13, 2003, the Board, *inter alia*, declared that The Burlington Northern and Santa Fe Railway Company (BNSF) is entitled under 49 U.S.C. 10901(d) to cross track owned and operated by the Keokuk Junction Railway Company (KJRY) near Keokuk, IA, to access BNSF's Mooar Line. The decision also directed the parties immediately to begin negotiations on a new crossing agreement and stated that, if the parties were unable to agree on compensation or other crossing terms within 30 days of the decision's effective date, the dispute should be submitted to the Board for a determination of terms under 49 U.S.C. 10901(d)(2). The decision became effective on June 12, 2003. KJRY appealed that decision to the United States Court of Appeals for the District of Columbia Circuit in Keokuk Junction Ry. v. STB and United States, No. 03-1139, and the Board served notice of that appeal on June 2, 2003.

The parties began negotiations to set compensation and other terms. By decisions served on July 21, August 13, September 16, and October 17, 2003, the parties' joint requests for extensions to continue negotiations were granted.

On October 31, 2003, BNSF filed a letter indicating that the parties had settled their remaining disputes. BNSF states that KJRY has authorized BNSF to write this letter expressing the parties' joint request that these proceedings be terminated. BNSF also states that KJRY will separately move the D.C. Circuit to dismiss the pending appeal in No. 03-1139.

The parties' request is reasonable. Therefore, the request 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. The parties' joint request to terminate these proceedings is granted and the proceedings are discontinued.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary