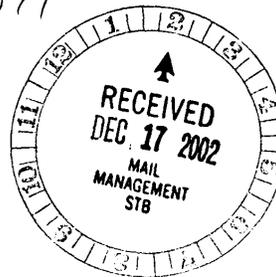


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THE LAW OFFICES OF  
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BY HAND

December 17, 2002

Honorable Vernon A. Williams  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423-0001

**RE:** STB Docket AB-No. 564, Camas Prairie RailNet, Inc.  
Abandonment Between Spalding and Grangeville, In  
Lewis, Nez Perce, and Idaho Counties, ID

**Petition to Substitute Trail User**

Dear Mr. Williams:

On behalf of Camas Prairie RailNet, Inc., the Camas Prairie Trail Conservancy, and BG & CM Railroad, Inc., I am enclosing an original and ten copies of a Joint Petition to Substitute Trail User under 49 CFR 1152.29(f). I am also enclosing one copy of this filing on a disk formatted in wordperfect 8.0.

Based upon my telephone conversation today with Tim Cambridge of the Board's staff, it is my impression there is no fee associated with this type of filing at this time.

Please date stamp and return for my files one copy of this letter and Petition.

Sincerely yours,

  
John D. Heffner

ENTERED  
Office of Proceedings

DEC 17 2002

Part of  
Public Record

Enclosures

cc: Mr. Michael Williams  
Mr. Robert F. McKenney  
all parties

ORIGINAL

BEFORE THE  
SURFACE TRANSPORTATION BOARD



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STB DOCKET NO. AB-564  
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CAMAS PRAIRIE RAILNET, INC.  
ABANDONMENT BETWEEN  
SPALDING AND GRANGEVILLE,  
IN LEWIS, NEZ PERCE AND IDAHO COUNTIES, ID

-----  
JOINT PETITION OF  
CAMAS PRAIRIE RAILNET, INC.,  
CAMAS PRAIRIE TRAIL CONSERVANCY  
AND BG & CM RAILROAD, INC.  
TO SUBSTITUTE TRAIL USER  
UNDER 49 CFR 1152.29(f)

Respectfully submitted,

John D. Heffner  
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555 Twelfth Street, N.W.  
Suite 950N  
Washington, D.C. 20004  
(202) 737-4335  
Counsel for BG & CM  
Railroad, Inc.

Dated: December 17, 2002

BEFORE THE  
SURFACE TRANSPORTATION BOARD



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STB DOCKET NO. AB-564  
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CAMAS PRAIRIE RAILNET, INC.  
ABANDONMENT BETWEEN  
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IN LEWIS, NEZ PERCE AND IDAHO COUNTIES, ID

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JOINT PETITION OF  
CAMAS PRAIRIE RAILNET, INC.,  
CAMAS PRAIRIE TRAIL CONSERVANCY  
AND BG & CM RAILROAD, INC.  
TO SUBSTITUTE TRAIL USER  
UNDER 49 CFR 1152.29(f)

INTRODUCTION

Pursuant to the National Trails Act, 16 U.S.C. 1247(d), and the implementing regulations at 49 CFR 1152.29(f), Camas Prairie RailNet, Inc. ("CSPR"), Camas Prairie Trail Conservancy ("Conservancy") and BG & CM Railroad, Inc. ("BG & CM") jointly petition the Board for (1) authority for the Conservancy to cease operations as the trail user and (2) for BG & CM to replace the Conservancy as the trail user over a 66.8 mile long line of railroad between Spalding and Grangeville, ID. BG & CM submits with this Petition a Statement of Willingness signed by its President Michael Williams and required by 49 CFR 1152.29(f). CSPR, the Conservancy, and BG & CM jointly request that the Board

reopen the subject abandonment proceeding, vacate the existing Certificate of Interim Trail Use ("CITU"), and issue an appropriate replacement CITU designating BG & CM as the substitute trail user, effective December 17, 2002.

BACKGROUND

On September 13, 2000, the Board originally issued its decision authorizing C SPR to terminate operations over and, subject to compliance with certain environmental and historic conditions, to abandon its rail line between MP 0.0 at Spalding and MP 66.8 in Grangeville, in Lewis, Nez Perce, and Idaho Counties, ID. That decision also incorporated a CITU designating the Grangeville Line as a rail trail under the National Trails Act and the implementing regulations.

Thereafter, C SPR discontinued rail service on or about November 30, 2000, but did not abandon the subject rail line. Subsequently, C SPR established the Conservancy and transferred an easement to it to operate the subject rail line as a rail trail under the National Trails Act and the implementing regulations. By decision served May 15, 2001, the Board authorized the Conservancy to serve as the trail user. During the 26 month period between September 2000 and November 2002, C SPR worked with federal, state, and local authorities to satisfy the environmental and historic conditions imposed by the Board's Section of Environmental Analysis ("SEA") as a condition to the

abandonment approval. On September 6, 2002, the Board issued an order finding that certain environmental and historic conditions had been met and deleting them and further finding that certain other remaining conditions were self executing and that C SPR could commence salvage as soon as those conditions had been satisfied. By December 5, 2002, C SPR had satisfied the last of those conditions<sup>1</sup> and had begun to salvage the track.

ARGUMENT AND REQUESTED RELIEF

The Board's trail use regulations simply state that where a trail user intends to terminate trail use and another person intends to become a trail user by assuming the financial responsibility for the right-of-way, then the existing and future trail users shall file, jointly, a copy of the extant CITU and a Statement of Willingness to Assume Financial Responsibility by the new trail user. The regulations also require the parties to indicate the date on which responsibility for the right-of-way transfer is to transfer to the new trail user. The regulations do not indicate how far in advance, if at all, this request must be made. 49 CFR 1152.29(f) (1) and (2).

Here C SPR previously transferred a rail trail easement over the Grangeville Line to the Conservancy and so notified the Board. Pursuant to an agreement executed with BG & CM, C SPR is

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<sup>1</sup> Letter dated December 5, 2002, from the National Park Service to the SEA advising that C SPR had satisfied the documentation standards for historic properties.

instant proceeding, the trail established in 2001 can readily be transferred to a new trail user in the form of BG & CM.

Accordingly, CSPR, the Conservancy, and BG & CM jointly request that the Board reopen the subject abandonment proceedings, vacate the existing CITU, and issue an appropriate CITU to the new trail user, effective on or after December 17, 2002.

Respectfully submitted,

John D. Heffner  
Law Offices of John D. Heffner  
555 Twelfth Street, N.W.  
Suite 950N  
Washington, D.C. 20004  
(202) 737-4335  
Counsel for BG & CM  
Railroad, Inc.

Dated: December 17, 2002

31841  
DO

SERVICE DATE - MAY 15, 2001

SURFACE TRANSPORTATION BOARD

CERTIFICATE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-564

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

Decided: May 9, 2001

On September 13, 2000, a decision and certificate of interim trail use or abandonment (CITU) was served, authorizing a 180-day period for the Nez Perce Tribal Executive Committee (the Nez Perce) to negotiate an interim trail use/rail banking agreement with Camas Prairie RailNet, Inc. (CSPR), for the 66.8-mile line of railroad known as the Grangeville Line, or Second Subdivision, extending from milepost 0.00 near Spalding, ID, to milepost 66.8 (end of track) near Grangeville, ID, in Lewis, Nez Perce, and Idaho Counties, ID. The 180-day period under the CITU was scheduled to expire on March 12, 2001. By a decision served on that date, the negotiating period was extended to June 10, 2001.

On April 25, 2001, Camas Prairie Trail Conservancy (the Conservancy) filed a pleading styled a "Statement of Willingness to Assume Financial Responsibility." In its pleading, the Conservancy indicates that, whereas the Nez Perce were willing to assume responsibility for a trail running over only a portion of the line, the Conservancy has entered into an agreement with CSPR under which it will establish a trail over the entire length of the line. The Conservancy has submitted a statement of willingness to assume financial responsibility for the right-of-way and acknowledged that use of the right-of-way is subject to possible future reconstruction and reactivation of the right-of-way for rail service, as required under 49 CFR 1152.29. The Conservancy requests issuance of a CITU.

A CITU will be issued here to authorize the Conservancy to negotiate with CSPR and to serve as a trail user. The Conservancy's request will therefore be granted. No agreement between CSPR and the Nez Perce has apparently been reached. The Conservancy has met the Board's requirements and has entered into an agreement with CSPR. Accordingly, the former may implement trail use without further action by the Board other than the authorization contained in this CITU.

The Conservancy is reminded that, if it subsequently intends to terminate trail use, it must send the Board a copy of this CITU and request that it be vacated on a specified date.

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

STB Docket No. AB-564

It is ordered:

1. The request for issuance by the Board of a CITU is granted.
2. Camas Prairie Trail Conservancy may implement interim trail use on the subject line.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary

selling an interest in the right of way to BG & CM and the Conservancy is assigning its rail trail responsibilities to BG & CM as well. That transaction will close today, December 17, 2002, and BG & CM will assume its responsibilities as a trail user upon receipt of authority from the Board. Because C SPR has never consummated the abandonment authority granted in the instant proceeding, the trail established in 2001 can readily be transferred to a new trail user in the form of BG & CM.

Accordingly, C SPR, the Conservancy, and BG & CM jointly request that the Board reopen the subject abandonment proceedings, vacate the existing CITU, and issue an appropriate CITU to the new trail user, effective December 17, 2002.

Respectfully submitted,



John D. Heffner  
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555 Twelfth Street, N.W.  
Suite 950N  
Washington, D.C. 20004  
(202) 737-4335  
Counsel for BG & CM  
Railroad, Inc.

Dated: December 17, 2002

**STATEMENT OF WILLINGNESS  
UNDER 49 CFR 1152.29(f)  
SUBMITTED BY BG & CM RAILROAD**

1. My name is Michael Williams and I am President of BG & CM Railroad ("BG & CM").
2. BG & CM is in the process of acquiring from Camas Prairie RailNet, Inc. and the Camas Prairie Trail Conservancy ("the Conservancy"), Sellers' rail line known as the Grangeville Line between MP 1.0 at Spalding and MP 66.8 at Grangeville, ID. This acquisition is subject to certain agreed upon terms and conditions and all conditions imposed by the Board in all decisions involving this rail line in STB abandonment docket AB-No. 564.
3. As a result of this acquisition, BG & CM proposes to assume the Conservancy's trail use responsibilities and to take this property subject to the provisions and requirements of the National Trails Act, 16 U.S.C. 1247(d), and the implementing regulations at 49 CFR 1152.29. BG & CM will acquire the subject right of way on December 17, 2002, and replace the Conservancy as the trail operator upon receipt of Board approval of the accompanying Petition to Substitute.
4. In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d), BG & CM (Interim Trail User) is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by the Conservancy and operated by the Conservancy and to be acquired by BG & CM. The property known as the Grangeville Line, extends from railroad milepost 0.0 at Spalding to railroad

milepost 66.8 at Grangeville, a distance of 66.8 miles in Lewis, Nez Perce, and Idaho Counties, ID. The right-of-way is part of a line of railroad which had been approved for abandonment in STB Docket AB-No. 564. A map of the property depicting the right-of-way is attached.

5. BG & CM acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the Conservancy on the same date it is served on the Board.

Signed this 17 day of December, 2002.

By: 

Michael Williams

31841  
DO

SERVICE DATE - MAY 15, 2001

SURFACE TRANSPORTATION BOARD

CERTIFICATE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-564

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

Decided: May 9, 2001

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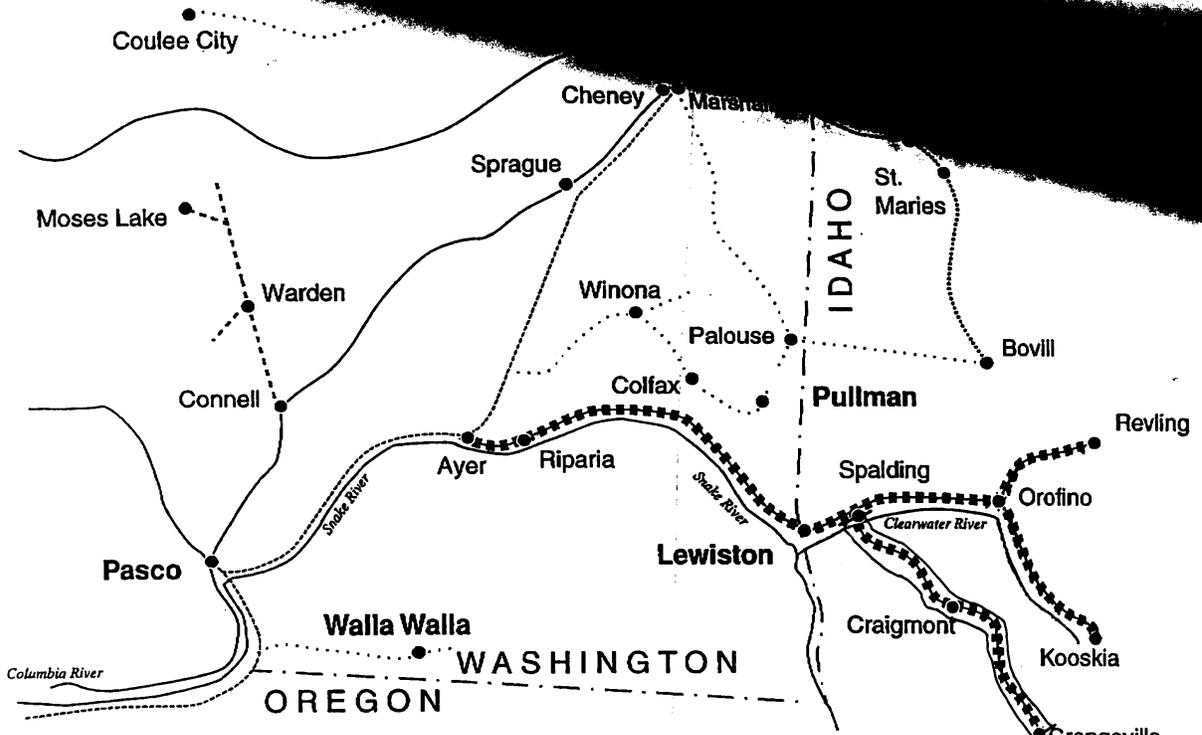
STB Docket No. AB-564

It is ordered:

1. The request for issuance by the Board of a CITU is granted.
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3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary



### Camas Prairie RailNet Railroad Lines

- ..... St. Maries Railroad
- Union Pacific
- BNSF
- Camas Prairie RailNet
- ..... Watco Shortlines
- Washington Central

*Grangeville Line*