

SERVICE DATE - OCTOBER 22, 1997

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33389

THE LAND CONSERVANCY OF SEATTLE AND KING COUNTY--
ACQUISITION AND OPERATION EXEMPTION--
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Decided: October 21, 1997

On April 15, 1997, The Land Conservancy of Seattle and King County (TLC), a noncarrier, filed a notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 12.45 miles of rail line owned by The Burlington Northern and Santa Fe Railway Company (BNSF). The line extends between milepost 7.30, near Redmond, and milepost 19.75, at Issaquah, in King County, WA. The exemption became effective on April 22, 1997, and the transaction was consummated on that date. Notice of the exemption was published on April 29, 1997 (62 FR 23291) and served on April 30, 1997.

Subsequently, in a decision served September 26, 1997, the Board granted a petition by the United Transportation Union for revocation of the exemption and ordered TLC immediately to reconvey the line to BNSF. The decision was effective on its service date.

On October 7, 1997, TLC filed a petition seeking reconsideration of that decision and other relief.¹ Embraced in the pleading is a request for stay of the order that TLC reconvey the line to BNSF pending a determination on TLC's various requests for relief.²

The stay request will be denied. Because the September 26, 1997 decision became effective when served, the effectiveness of the order could not be stayed. However, by pleading filed on October 14, 1997, in support of TLC's request for stay, BNSF has indicated that it intends to file a petition for reconsideration and has demonstrated the serious disruption that would be caused by immediate enforcement of our order to reconvey pending the consideration of administrative appeals. Therefore, the Board will refrain from enforcing, and hold in abeyance, TLC's obligation to reconvey the line to BNSF pending final disposition of TLC's and BNSF's anticipated petition.

It is ordered:

1. The request for stay is denied.
2. The requirement that TLC reconvey the subject line to BNSF is held in abeyance pending resolution of TLC's petition for reconsideration.
3. This decision is effective on its service date.

1 The pleading is titled "Petition for Rehearing or, in the alternative, Petition for Exemption under §10502, Motion for Stay of Order to Reconvey Line, and Request for Clarification."

2 In a decision served September 29, 1997, in light of the decision in this proceeding, the Board dismissed TLC's abandonment exemption petition in The Land Conservancy of Seattle and King County--Abandonment Exemption--In King County, WA, STB Docket No. AB-508X. TLC has filed a petition in that proceeding requesting the Board to rehear and reinstitute the proceeding and to hold the dismissal in abeyance pending action in STB Finance Docket No. 33389. The Board will not take any action on the petition in STB Docket No. AB-508X at this time. Should the Board reverse itself in the acquisition proceeding, the abandonment exemption proceeding could be reinstated and resumed.

By the Board, Linda J. Morgan, Chairman.

Vernon A. Williams
Secretary