

SURFACE TRANSPORTATION BOARD FINDS MISUSE OF PROCESS, REVOKES "THE LAND CONSERVANCY'S" EXEMPTION FOR ACQUISITION OF RAIL LINE IN WASHINGTON STATE, ORDERS LINE'S RETURN TO "BURLINGTON NORTHERN-SANTA FE" RAILROAD

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FOR ACQUISITION OF RAIL LINE IN WASHINGTON STATE,
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Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board, concluding that its line sale exemption process had been misused, has revoked an exemption from regulation granted earlier to The Land Conservancy of Seattle and King County (TLC), a noncarrier, for TLC's acquisition of a 12.45-mile railroad line from The Burlington Northern and Santa Fe Railway Company (BNSF), and has ordered TLC immediately to reconvey the line to BNSF. The line extends from a point near Redmond to a point at Issaquah, in King County, Washington.

TLC acquired the line for rail service under the Board's special exemption procedures governing rail line acquisitions. TLC's authority to acquire the line became effective on April 22, 1997, and the transaction was consummated on that date. Subsequently, on June 11, 1997, TLC filed with the Board an abandonment exemption petition covering the line.

On July 14, 1997, the United Transportation Union (UTU) filed a petition with the Board seeking revocation of the acquisition exemption. In support of its petition, the UTU argued that, within days after acquiring the line from BNSF, TLC had initiated action to abandon it. In this regard, UTU pointed out that, had BNSF itself petitioned the Board to abandon the line, and had the Board granted that request, the Board would have conditioned its approval subject to standard labor-protective conditions. In response, BNSF argued that no employees were displaced by the line sale, and that none could have been displaced even if BNSF had abandoned the line. TLC asserted that the transaction neither abused Board procedures nor affected rail labor or shippers.

In its decision, the Board concluded that, even assuming the lack of adverse impact on labor and shippers, the Board's procedures had been misused. The public

record showed that TLC never intended to reinstitute rail service on the line, but rather that TLC had put into effect a plan to convert the rail line to trail use as soon as possible following its acquisition of the line. The Board emphasized that the policy behind its special exemption procedures governing rail line acquisitions supports the continued operation of rail lines in lieu of their abandonment. The Board stated that, when an acquiring noncarrier begins abandonment proceedings within days after consummating a line's acquisition--and there are no extenuating circumstances--it is clear that the Board's processes are being misused.

The Board revoked TLC's exemption in the case entitled *The Land Conservancy of Seattle and King County--Acquisition and Operation Exemption--The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 33389, on September 26, 1997.

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