

Surface Transportation Board Announces Results of August 11 Voting Conference

Surface Transportation Board Chairman Roger Nober today announced the results of the voting conference held today, August 11, 2004, by the STB.

The list of cases on which Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey voted, and the outcome of the voting, are attached as a fact sheet.

###

ATTACHMENT

Fact Sheet

VOTING RESULTS OF SURFACE TRANSPORTATION BOARD'S AUGUST 11, 2004 VOTING CONFERENCE

• ***CF Industries, Inc. v. Kanab Pipe Line Partners, L.P. and Kanab Pipe Line Operating Partnership, L.P., STB Docket No. 42084.***

The Board voted unanimously to order the pipeline to reduce its rates to the levels previously prescribed in an earlier proceeding and to reimburse the shipper for excess charges already paid. The Board also voted to ask the parties to present additional evidence so that the agency can determine whether changed circumstances warrant vacating the rate prescription for future transportation.

• ***North America Freight Car Association--Protest and Petition for Investigation--Tariff Publications of The Burlington Northern and Santa Fe Railway Company, STB Docket No. 42060. [This case embraces North America Freight Car Association v. The Burlington Northern and Santa Fe Railway Company, STB Docket No. 42060 (Sub-No. 1)].***

The Board voted unanimously to find that Burlington Northern's car storage and diversion charges on certain private cars do not violate an agreement between the railroad industry and private car owners that was approved by the Board's predecessor, the Interstate Commerce Commission, in 1978. The Board also voted to deny Burlington Northern's motion to dismiss a separate complaint charging that the carrier's storage and demurrage charges on private cars in general violate the Interstate Commerce Act.

• ***City of Lincoln--Petition for Declaratory Order, STB Finance Docket No. 34425.***

The Board voted unanimously to find that the City of Lincoln's proposed taking of a 20-foot-wide strip of railroad right-of-way under state eminent domain law would be federally preempted.

• ***Town of Milford, MA--Petition for Declaratory Order, STB Finance Docket No. 34444.***

The Board voted unanimously to find that an entity named the Boston Railway Terminal Company is not a railroad and that, therefore, certain activities that the company wishes to conduct on land owned by a railroad would not be federally preempted, but instead would be subject to state and local laws and regulations.

• ***Railroad Revenue Adequacy--2003 Determination, STB Ex Parte No. 552 (Sub-No. 8).***

The Board voted unanimously to find that no Class I railroad earned the railroad industry's cost of capital for the year 2003 (which was 9.4%) and that, thus, no railroad was "revenue adequate" for 2003.

• ***Chelsea Property Owners--Abandonment--Portion of the Consolidated Rail Corporation's West 30th Street Secondary Track in New York, NY, Docket No. AB-167 (Sub-No 1094)A.***

The Board voted unanimously to deny a request to extend the period during which Offers of Financial Assistance will be accepted for a rail line in New York City, and to further hold the proceeding in abeyance so that parties can continue negotiating to resolve some of the matters at issue.

• ***A & R Line, Inc.--Abandonment Exemption--in Cass and Pulaski Counties, IN, STB Docket No. AB-855 (Sub-No. 1X).***

The Board voted unanimously to deny a request by Pulaski County to require the railroad or trail sponsor to post a performance bond or to escrow funds for potential removal or cleanup costs for rail property that will be railbanked and used in the interim as a trail.

The STB provides the above summaries as a courtesy to the public and the media. The actions of the agency in these cases, however, are its written decisions. Those decisions will be forthcoming, and will be available for viewing (under "E-Library/"Decisions & Notices") and downloading via the STB's Web site at <http://www.stb.dot.gov>. Printed copies of the decisions also will be available for a fee by contacting **ASAP Document Solutions, 9332 Annapolis Rd., Suite 103, Lanham, MD 20706, telephone (301) 577-2600**, or via asapmd@verizon.net.

###