

application, subject to the filing and service requirements specified above. Such comments (referred to as "responses" in the procedural schedule) should indicate the exact proceeding designation and should be filed with the Commission by June 9, 1995. Comments shall include the following: the commenter's position in support of or in opposition to the proposed transaction; any and all evidence, including verified statements, in support of or in opposition to the proposed transaction; and specific reasons why approval would or would not be in the public interest. Interested persons who do not intend to participate formally in the proceeding but who desire to comment may also file statements, also subject to the filing and service requirements specified above. Persons must state specifically whether they intend to participate actively in the proceeding or whether they wish only to be advised of all decisions issued by the Commission. Failure to state an intention to participate as an active party will result in the person being placed in the latter category.

Because SPS/TUCO's responsive application contains proposed conditions to approval of the primary application in Finance Docket No. 32549, the Commission will entertain no requests for affirmative relief to this proposal. Parties may only participate in direct support of or direct opposition to SPS/TUCO's responsive application as filed.

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

Decided: May 17, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,
Secretary.

[FR Doc. 95-12887 Filed 5-24-95; 8:45 am]

BILLING CODE 7035-01-P

[Finance Docket No. 32549 (Sub-No. 16)]

**Western Fuels Service Corp.—
Trackage Rights Over The Atchison,
Topeka and Santa Fe Railway
Company Between Denver, CO, and
Holcomb, KS**

AGENCY: Interstate Commerce Commission.

ACTION: Decision No. 25; notice of acceptance of responsive application filed by Western Fuels Service Corp.

SUMMARY: The Commission is accepting for consideration the application filed

by Western Fuels Service Corp. (WFSC) for trackage rights over lines of The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) in Colorado and Kansas. This application is responsive to the primary application filed by Burlington Northern Railroad Company (BN) and its corporate parent, Burlington Northern Inc. (BNI), and Santa Fe and its corporate parent, Santa Fe Pacific Corporation (SFP), by which primary applicants BNI, BN, SFP, and Santa Fe seek approval for BNI's acquisition of, control of, and merger with SFP, the resulting common control of BN and Santa Fe by the merged company, the consolidation of BN and Santa Fe railroad operations, and the merger of BN and Santa Fe.

DATES: The effective date of this decision is May 25, 1995. Comments regarding the WFSC responsive application must be filed with the Commission by June 9, 1995. Rebuttal in support of the WFSC responsive application must be filed by June 19, 1995. Briefs (not to exceed 50 pages) must be filed by June 29, 1995.

ADDRESSES: An original and 20 copies of all documents must refer to Finance Docket No. 32549 (Sub-No. 16) and be sent to the Office of the Secretary, Case Control Branch, Attn: Finance Docket No. 32549 (Sub-No. 16), Interstate Commerce Commission, 1201 Constitution Avenue, N.W., Washington, D.C. 20423. Parties are encouraged also to submit all pleadings and attachments on a 3.5-inch diskette in WordPerfect 5.1 format.

In addition, one copy of all documents in this proceeding must be served, by first class mail, on: the Secretary of the Department of Transportation; the Attorney General of the United States; Administrative Law Judge Jacob Leventhal, Federal Energy Regulatory Commission, Office of Hearings, 825 North Capitol Street, N.E., Washington, D.C. 20426; Betty Jo Christian, Esq., Steptoe & Johnson, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036-1795 (representing primary applicants BNI and BN); Erika Z. Jones, Esq., Mayer, Brown & Platt, 2000 Pennsylvania Avenue, N.W., Suite 6500, Washington, D.C. 20006 (representing primary applicants SFP and Santa Fe); and Peter Glaser, Esq., Doherty, Rumble and Butler, P.C., 1625 M Street, N.W., Washington, D.C. 20036 (representing responsive applicant WFSC).

Furthermore, one copy of all documents in this proceeding must be served, by first class mail, on all persons designated parties of record [POR] on the Commission's service list, served on May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Julia Farr, (202) 927-5352. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: By this responsive application, WFSC seeks trackage rights over approximately 326 miles of Santa Fe's lines between Denver, CO, and Holcomb, KS, from the BN Yard at Denver, CO (BN MP 541.2) to the Santa Fe Yard at Pueblo, CO (Santa Fe MP 733.4) to the Sunflower Electric Station (also known as Holcomb Station) at Holcomb, KS (Santa Fe MP 407.4). WFSC is a wholly owned subsidiary of Western Fuels Association, Inc. (WFA), a non-profit fuel supply cooperative corporation whose member-owners are municipally and cooperatively owned electric utilities located in the Rocky Mountain West, the Midwest, the Southwest, and Louisiana. Sunflower Electric Station is a coal-burning electric generating facility owned by Sunflower Electric Power Corporation, a WFA member. The trackage rights sought by WFSC are intended to be used for the transportation of coal moving to Sunflower Electric Station.

WFSC's responsive application substantially complies with the applicable regulations, and it has therefore been accepted for consideration by the Commission. WFSC maintains, and we agree, that the trackage rights sought in its responsive application constitute a minor transaction. See 49 CFR 1180.2(b) (a transaction is minor if it does not involve the control or merger of two or more class I railroads and if it clearly will not have any anticompetitive effects).

The responsive application and exhibits are available for inspection in the Public Docket Room at the offices of the Commission in Washington, D.C. In addition, they may be obtained upon request from WFSC's representative named above.

This responsive application is consolidated for disposition with the Finance Docket No. 32549 primary application (and all embraced proceedings). Service of an initial decision will be waived, and determination of the merits of the responsive application will be made in the first instance by the entire Commission. 49 U.S.C. 11345(f).

Interested persons may participate formally by submitting written comments regarding the responsive application, subject to the filing and service requirements specified above. Such comments (referred to as "responses" in the procedural schedule) should indicate the exact proceeding

designation and should be filed with the Commission by June 9, 1995. Comments shall include the following: The commenter's position in support of or in opposition to the proposed transaction; any and all evidence, including verified statements, in support of or in opposition to the proposed transaction; and specific reasons why approval would or would not be in the public interest. Interested persons who do not intend to participate formally in the proceeding but who desire to comment may also file statements, also subject to the filing and service requirements specified above. Persons must state specifically whether they intend to participate actively in the proceeding or whether they wish only to be advised of all decisions issued by the Commission. Failure to state an intention to participate as an active party will result in the person being placed in the latter category.

Because WFSC's responsive application contains proposed conditions to approval of the primary application in Finance Docket No. 32549, the Commission will entertain no requests for affirmative relief to this proposal. Parties may only participate in direct support of or direct opposition to WFSC's responsive application as filed.

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

Decided: May 17, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95-12889 Filed 5-24-95; 8:45 am]

BILLING CODE 7035-01-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Department policy, 28 C.F.R. 50.7, notice is hereby given that a proposed consent decree in *United States v. Barsotti's Inc.* Civil Action No. C-95-20310 RMW (PVG), was lodged on May 10, 1995 with the United States District Court for the Northern District of California. The compliant seeks civil penalties and injunctive relief for violations of the Clean Air Act and National Emission Standards for Hazardous Air Pollutants ("NESHAP") for asbestos. 40 C.F.R. Part 61, Subpart M (1991). The compliant alleges that Barsotti violated the Asbestos NESHAP's Standard for

Demolition and Renovation, 40 C.F.R. 61.145, during the renovation of Pacific Gas and Electric Co.'s Moss Landing Power Plant in Moss Landing, California in September 1992. Barsotti violated 40 C.F.R. 61.145(b) by: (1) Failing to adequately wet the regulated asbestos-containing material ("RACM") during the stripping operation, (2) failing to keep the RACM wet prior to disposal and (3) failing to carefully lower the RACM to the ground to prevent releases of asbestos. The consent decree requires Barsotti to pay a penalty of \$68,000, which will be shared equally with the Monterey Unified Air Pollution Control District, and requires Barsotti to implement an asbestos management program and an asbestos training program if it should engage in future asbestos abatement activities.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Barsotti's, Inc.* DOJ Ref. #90-5-21-1905.

The proposed consent decree may be examined at the Office of the United States Attorney Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102; Office of the Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94102; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624-0892. A Copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of \$5.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95-12868 Filed 5-24-95; 8:45 am]

BILLING CODE 4410-10-M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, 38 Fed. Reg. 19029, notice is hereby given that on May 16, 1995, a proposed Consent Decree in *United States v. James River Paper Company*, Civil Action No. 95-258-JD

was lodged with the United States District Court for the District of New Hampshire resolving the matters alleged in a complaint filed simultaneously with the Consent Decree. The proposed Consent Decree concerns alleged violations by James River of Sections 309(b) and (d) of the Clean Water Act ("CWA"), 33 U.S.C. 1319(b) and (d), Sections 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6928(a) and (g), Section 109(c) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9609(c), and Section 325(b)(3) of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. 11045(b)(3), at pulp and paper mills operated by James River in Gorham and Berlin, New Hampshire.

The CWA violations alleged in the complaint include: violations of the federal pretreatment standards and National Prohibited Discharge Standard; the unauthorized discharge of pollutants without a permit; and the discharge of pollutants in excess of levels allowed under a permit. The RCRA violation alleged in the complaint includes the disposal of hazardous waste without a permit. Finally, the CERCLA and EPCRA violations alleged in the complaint include the failure to timely report the spill of sulfuric acid at the pulp mill.

Under the terms of the Consent Decree, the defendant will pay a civil penalty of \$200,000 to the United States and will be required to comply with the Clean Water Act. In addition, the defendant will be required to install equipment at the pulp mill necessary to reduce certain sulfur emissions from wastewater effluent.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and should refer to *United States v. James River Paper Company*, D.J. Ref. 90-5-1-1-4123.

The proposed Consent Decree may be examined at the Region I Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts, and at the office of the United States Attorney, District of New Hampshire, 55 Pleasant Street, Concord, New Hampshire, c/o Gretchen L. Witt, Assistant U.S. Attorney. Copies of the Consent Decree may also be examined at the Consent Decree Library, 1120 G.