

Agenda for the Meetings

- Sign-in.
- Presentation of Meeting Procedures.
- Informal Presentation of the planned Class B Airspace area Modification.
- Public Presentations and Discussions.
- Closing Comments.

At all meetings, the informal presentation will be conducted at 3 p.m., 5 p.m., and again at 7 p.m. Each presentation will be the same, so attendees may arrive at any time at their convenience, and it will not be necessary to remain until the end. Following each presentation there will be time for questions and presentations by attendees.

Issued in Washington, DC, on November 23, 2009.

Edith V. Parish,

Manager, Airspace and Rules Group.

[FR Doc. E9-28900 Filed 12-3-09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Surface Transportation Board**

[STB Ex Parte No. 693]

Oral Argument

AGENCY: Surface Transportation Board.

ACTION: Notice of oral argument.

SUMMARY: By a decision served on December 1, 2009, the Board announced that it will hold oral arguments in two cases: STB Finance Docket No. 35225, *San Benito Railroad LLC—Acquisition Exemption—Certain Assets of Union Pacific Railroad Company (San Benito RR)*; and STB Finance Docket No. 35239, *Allegheny Valley Railroad Company—Petition for Declaratory Order (Allegheny Valley)*.

Dates/Location: The oral arguments will take place on Tuesday, January 26, 2010, at 9:30 a.m., in the Board's hearing room at the Board's headquarters located at 395 E Street, SW., Washington, DC. By January 21, 2010, the parties should submit to the Board the name of the counsel who will be presenting argument, the party counsel will be representing, and the requested time reserved for rebuttal if the party is the movant or petitioner.

FOR FURTHER INFORMATION CONTACT: Amy Ziehm, (202) 245-0391. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: In STB Finance Docket No. 35225, San Benito Railroad LLC (San Benito), a noncarrier, has filed a verified notice of exemption to acquire from Union Pacific Railroad

Company (UP) certain railroad assets, including approximately 12.43 miles of rail line extending between approximately milepost 0.7 (near Hollister, CA) and approximately milepost 12.50 (near Carnadero, CA) in San Benito County. San Benito simultaneously filed a motion to dismiss the notice of exemption. San Benito seeks a determination from the Board that it would not become a common carrier and that the Board would not have jurisdiction over the proposed acquisition because the parties have structured the transaction pursuant to the terms and conditions of the Interstate Commerce Commission's decision in *State of Maine—Acq. And Op. Exempt.*, 8 I.C.C.2d 935 (1991) (*State of Maine*), and subsequent Board decisions addressing *State of Maine*.

The Brotherhood of Maintenance of Way Employes Division/IBT and the Brotherhood of Railroad Signalmen (collectively "Unions") filed a response in opposition to San Benito's motion to dismiss. The Unions argue that *State of Maine* was wrongly decided and must be overturned because it is contrary to the Interstate Commerce Act. The Board will hear argument on the motion to dismiss the notice of exemption.

In STB Finance Docket No. 35239, Allegheny Valley Railroad Company (AVRR) has filed a petition for declaratory order to determine whether a 0.3-mile rail segment between 16th Street and 21st Street in Pittsburgh, PA, remains an active rail easement. AVRR, which claims that the easement remains active, wants to restore the 0.3-mile segment of the line as part of a longer line and provide passenger and freight rail service over it. AVRR purportedly acquired the easement as part of a line sale by Consolidated Rail Corporation (Conrail). The segment spans property owned by The Buncher Company (Buncher). Buncher claims that the track in question has been abandoned and that the property interest has been extinguished.

On May 13, 2009, the Board instituted a declaratory order proceeding to clarify the issues and established a procedural schedule. The parties submitted several rounds of evidence concerning the status of the track.

On September 17, 2009, the Board issued a decision directing AVRR and Buncher to address whether or how the recent ruling by the United States Court of Appeals for the District of Columbia Circuit in *Consolidated Rail Corp. v. STB*, 571 F.3d 13 (D.C. Cir. 2009) (*Harsimus*) affects this case. In *Harsimus*, the Court of Appeals found that where the Board's authority was challenged and an interpretation of the

Final System Plan (FSP) for the creation of Conrail or the Special Court's conveyance order under 45 U.S.C. 719(e)(2) for Conrail's creation was required, the Board lacked jurisdiction to resolve the question of the nature of the involved trackage.

AVRR and Buncher filed their evidence on October 9, 2009. AVRR claims that *Harsimus* is limited to its facts and that the Board should resolve the case. Buncher asserts that the Board should dismiss the case in accordance with *Harsimus*, as the resolution of the case relies upon interpreting the FSP and the documents relating to the conveyance to Conrail, thus placing the case directly under the jurisdiction of the Special Court, which is now the United States District Court for the District of Columbia.

The STB requests that all persons attending the hearing use the Patriots Plaza Building's main entrance at 395 E Street, SW. (closest to the northeast corner of the intersection of 4th and E Streets). There will be no reserved seating, except for those scheduled to present oral arguments. The building will be open to the public at 7 a.m., and participants are encouraged to arrive early. There is no public parking in the building. The oral arguments will be open for public observation, but only counsel for the parties will be permitted to present argument. A video broadcast of the oral argument will be available via the Board's Web site at <http://www.stb.dot.gov>, under "Information Center"/"Webcast"/"Live Video" on the home page.

Additional information is contained in the Board's decision. A copy of the Board's decision is available for inspection or copying at the Board's Public Docket Room, Room 131, 395 E Street, SW., Washington, DC 20423-0001, and is posted on the Board's Web site, <http://www.stb.dot.gov>.

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

Decided: December 1, 2009.

By the Board, Rachel D. Campbell,
Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9-28956 Filed 12-3-09; 8:45 am]

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