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SERVICE DATE - JUNE 16, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 396X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY—ABANDONMENT EXEMPTION—IN FRANKLIN COUNTY, KS

Decided: June 6, 2003

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon and discontinue service over a 0.21-mile line of railroad between milepost 58.05 and milepost 58.26, in Ottawa, Franklin County, KS.¹ On December 26, 2002, a decision and notice of interim trail use or abandonment (NITU) was served, reopening the proceeding and authorizing a 180-day period for the City of Ottawa (City) to negotiate an interim trail use/rail banking agreement with BNSF for the right-of-way involved in this proceeding. The negotiating period under the NITU is scheduled to expire on June 24, 2003.²

On May 20, 2003, and May 27, 2003, respectively, BNSF and the City filed requests to extend the negotiating period through December 21, 2003. The parties report that they are negotiating but that additional time will be necessary to finalize a potential trail transaction.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiation period may be extended.³ Under the circumstances, an extension of the negotiating period is warranted and will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the negotiating period will be extended until December 21, 2003.

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

¹ Notice of the exemption was served and published in the Federal Register on November 14, 2002 (67 FR 69071).

² The December 26 decision also imposed a 180-day public use condition that expires on June 24, 2003.

³ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987).

It is ordered:

1. BNSF's and the City's requests to extend the NITU negotiating period are granted.
2. The negotiating period under the NITU is extended to December 21, 2003.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary