

36599
DO

SERVICE DATE – DECEMBER 29, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 403X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN SEDGWICK
COUNTY, KS

Decided: December 27, 2005

The Burlington Northern and Santa Fe Railway Company, now BNSF Railway Company (BNSF), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon its line of railroad, between milepost 494.22 and milepost 505.20 in and near Wichita, KS, and from milepost 515.23 to milepost 509.30 between Wichita and Valley Center, in Sedgwick County, KS, a total distance of 16.91 miles. Notice of the exemption was served and published in the Federal Register on March 24, 2003 (68 FR 14272). The notice stated that, if consummation had not been effected by BNSF's filing of a notice of consummation by March 24, 2004, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.¹ The deadline to file a notice of consummation was extended through December 31, 2005, by decisions served on March 29, 2004, and December 30, 2004.

Under 49 CFR 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings. On December 21, 2005, BNSF filed a request for an extension of time to file its notice of consummation until July 1, 2006, for those portions of the lines that are not rail banked. BNSF states that winter weather conditions have hampered salvage activities. BNSF has shown good cause to extend the time to consummate the abandonment, and for filing a notice of consummation in this proceeding. Therefore, the extension request will be granted.

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

¹ By decision and notice of interim trail use or abandonment (NITU) served on April 22, 2003 (April 2003 decision), the proceeding was reopened and a 180-day period was authorized for the City of Wichita to negotiate an interim trail use/rail banking agreement with BNSF for a 9.78-mile segment of the right-of-way extending from milepost 494.22 at the Butler County/Sedgwick County line, westward to milepost 504.00, near Hydraulic Street, in downtown Wichita. The April 2003 decision also imposed several environmental conditions. By decision and amended NITU served on May 10, 2005, the NITU issued in the April 2003 decision was modified to reflect an additional 0.05 miles included by the parties in their interim trail use/rail banking agreement dated March 24, 2005.

It is ordered:

1. BNSF's request for an extension of time to exercise the abandonment authority is granted.
2. The authority to abandon must be exercised, and the notice of consummation of the abandonment must be filed, on or before July 1, 2006.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary