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SERVICE DATE - MARCH 16, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 385X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY--ABANDONMENT EXEMPTION--IN GREENE COUNTY, MO

Decided: March 15, 2001

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 5.82-mile line of its railroad between milepost 189.22 near Springfield and milepost 183.40 near Willard, in Greene County, MO. Notice of the exemption was served and published in the Federal Register on September 16, 1999 (64 FR 50323).¹ On March 23, 2000, a decision and notice of interim trail use or abandonment (NITU) was served, which reopened the proceeding to implement interim trail use/rail banking for the entire line under 49 CFR 1152.29 and the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and provided a 180-day period for Ozark Greenways, Inc. (OGI) to negotiate an interim trail use/rail banking agreement with BNSF for the right-of-way involved in this proceeding. By decision served September 19, 2000, the negotiating period under the NITU was extended to March 18, 2001, for a portion of the right-of-way between milepost 189.18 and milepost 183.40.

On March 13, 2001, OGI, with the consent of BNSF, filed a request to extend the NITU negotiation period for an additional 45 days. OGI states that BNSF is preparing, but has not yet completed, a draft contract and related documents (including property description) for review and ultimate execution.

¹ By decision served October 14, 1999, the proceeding was reopened at the request of the Board's Section of Environmental Analysis and the exemption was made subject to the conditions that BNSF: (a) retain its interest in and take no steps to alter the historic integrity of the line in its entirety until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f; (b) consult with National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic markers; (c) consult with the Missouri Department of Natural Resources, Water Pollution Program prior to salvage operations concerning storm water discharge; and (d) consult with the U.S. Fish and Wildlife Service prior to salvage operations to determine if any action is necessary to protect the Missouri bladderpod.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.² 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 Trails Act. Accordingly, the negotiating period will be extended to May 2, 2001.

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

It is ordered:

1. The negotiating period under the NITU is extended to May 2, 2001.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

² See Rail Abandonment--Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987).