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SERVICE DATE - OCTOBER 7, 2004

SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: October 5, 2004

The Burlington Northern and Santa Fe 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). By decision served on April 22, 2003 (April 2003 decision), a decision and notice of interim trail use or abandonment (NITU) was served that reopened the proceeding and authorized a 180-day period for the City of Wichita (the City) 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.<sup>1</sup> The negotiating period was extended by decisions served on October 2, 2003, and March 29, 2004 (March 2004 decision).<sup>2</sup> The latest extension is scheduled to expire on October 13, 2004.

By letter filed on September 24, 2004, the City requests an extension of the NITU negotiating period for an additional 180 days. The City indicates that it has initiated an extensive citizen involvement program to inform the public and adjacent property owners on the rail banking and trail development process and that it continues to negotiate in good faith with BNSF for interim trail use for the 9.78-mile line segment. BNSF, in a letter filed on September 23, 2004, states that the City and BNSF are still in negotiations and that BNSF concurs in the City's request for an additional 180-day extension to facilitate public involvement and conclude negotiations.

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<sup>1</sup> The April 2003 decision also imposed several environmental conditions.

<sup>2</sup> The March 2004 decision also extended the consummation notice filing deadline until December 31, 2004.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiation period may be extended.<sup>3</sup> 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 NITU negotiating period will be extended for an additional 180 days from October 13, 2004 (until April 11, 2005).

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

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended until April 11, 2005.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary

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<sup>3</sup> See Rail Abandonments–Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987).