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SERVICE DATE – MARCH 19, 2020

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 6 (Sub-No. 493X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—
IN COOK COUNTY, ILL.

Decided: March 18, 2020

On November 23, 2016, a notice of interim trail use or abandonment (NITU) was issued permitting the City of Chicago, acting by and through its Department of Transportation (the City), to negotiate with BNSF Railway Company (BNSF) for acquisition of the line at issue in this proceeding for use as a trail under the National Trails System Act, 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29. The NITU has been extended a number of times, most recently until March 6, 2020.

On February 26, 2020, the City filed a request to extend the NITU negotiating period until March 6, 2021. On March 11, 2020, BNSF consented to the requested extension. Because the NITU was issued in 2016, it qualifies, under the Board's new rule governing NITUs, for the transitional one-year extension without a showing of extraordinary circumstances. See Limiting Extensions of Trail Use Negotiating Periods, EP 749 (Sub-No. 1) et al., slip op. at 11 (STB served Dec. 4, 2019) (adopting final rule regarding the number and duration of, and standard for granting, extensions of a NITU negotiating period).

Because the request is otherwise consistent with the new rule and BNSF consents to the extension, the request for an extension of the NITU negotiating period until March 6, 2021, will be granted. However, under the new rule, any further extension request will require a showing of extraordinary circumstances. See id.

It is ordered:

1. The request for an extension of the NITU negotiating period until March 6, 2021, is granted.
2. This decision will be effective on its date of service.

By the Board, Allison C. Davis, Director, Office of Proceedings.