

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 400X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
–ABANDONMENT EXEMPTION–
IN FRANKLIN AND WEBSTER COUNTIES, NE

Decided: December 23, 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 a 19.8-mile line of railroad between milepost 216.95 near Franklin, NE, and milepost 197.15 near Red Cloud, NE, in Franklin and Webster Counties, NE. Notice of the exemption was served and published in the Federal Register on March 5, 2003 (68 FR 10575-76). The notice stated that, if consummation had not been effected by BNSF's filing of a notice of consummation by March 5, 2004, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.

By decision and notice of interim trail use or abandonment (NITU) served April 3, 2003, the proceeding was reopened and a 180-day period was authorized for the Nebraska Trails Foundation, Inc. (NTF), and the Lower Republican River Visionaries of Red Cloud to negotiate an interim trail use/rail banking agreement with BNSF for the entire line pursuant to the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). The trail use negotiation period under the NITU was scheduled to expire on September 30, 2003, but has been extended to December 23, 2004, by decisions served September 29, 2003, March 26, 2004, and September 24, 2004.¹

On December 20, 2004, BNSF filed a letter stating that, as of that date, it and NTF have ended negotiations and that the railroad line in issue will not be rail banked. However, BNSF indicated that it needs to remove bridges on the line before consummation of the abandonment can occur.

¹ The April 3, 2003 decision also imposed a public use condition, which expired on October 1, 2003, and two environmental conditions, consisting of the U.S. Fish and Wildlife Service condition and a historic preservation condition. The historic preservation condition was removed by decision served May 8, 2003. The other environmental condition imposed in the April 3, 2003 decision remains in effect.

Therefore, BNSF requested an extension of the consummation date for abandonment, up to and including December 23, 2005, to allow it to complete the removal of the bridges and all other related salvage on the line.

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. Good cause has been shown and the deadline for filing the notice of consummation will accordingly be extended to December 23, 2005.

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

It is ordered:

1. BNSF's request for an extension of time to consummate the abandonment is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before December 23, 2005.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary