

City of Marion

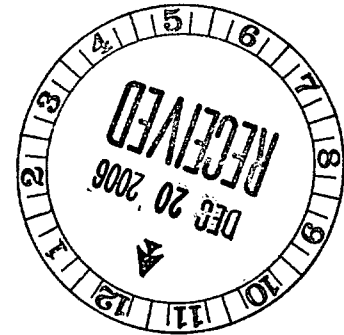
1100 8th Avenue • Marion, IA 52302

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December 15, 2006

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street NW – Room 711
Washington, DC 20423



RE: STB Docket No. AB-314 (Sub-No 2X)
Chicago Central & Pacific Railroad – Abandonment – Linn County, Iowa

Dear Mr. Williams:

On October 25, 2002, the Surface Transportation Board (STB) entered into a decision and served notice with respect to interim trail use/rail banking of the captioned abandonment, subject to public use trail, environmental and standard employee protective conditions. On September 19, 2006, the STB concurred with the City of Marion's request to extend the interim trail use/rail banking of the subject abandonment until December 31, 2006.

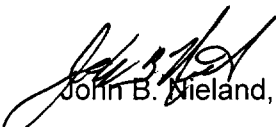
The parties are still in active negotiations but they will not be concluded by the December 30 timeline.

Accordingly, the City of Marion, Iowa, respectfully requests an additional time extension to March 31, 2007 regarding interim trail use/rail banking of the subject abandonment within the corporate limits of the City of Marion, Iowa. We have notified the railroad regarding this extension request and they have no objection.

Please feel free to contact City Manager Jeff Schott at 319-377-1581 if you have any questions or need additional information regarding this request.

Sincerely,

FILED FEE WAIVED


John B. Nieland, Mayor

JBN:st

attachment

cc: Michael J. Barron, Jr., Counsel, Canadian National Railroad
Art Spiros, Canadian National Railroad
Nancy J. Burns, Iowa Department of Transportation
John Hey, Iowa Department of Transportation
Troy Siefert, Iowa Department of Transportation

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SERVICE DATE – OCTOBER 6, 2006

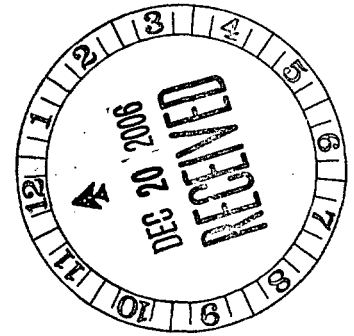
SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-314 (Sub-No. 2X)

CHICAGO CENTRAL & PACIFIC RAILROAD COMPANY–ABANDONMENT
EXEMPTION–IN LINN COUNTY, IA

Decided: October 5, 2006



By decision and notice of interim trail use or abandonment (NITU) served on October 25, 2002, the Board granted Chicago Central & Pacific Railroad Company (CCP) an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a segment of the Marion-Louisa Industry Lead, extending from milepost ZA 225.7 to milepost ZA 229.5, a distance of approximately 3.8 miles in Linn County, IA. The exemption was granted subject to trail use, public use, environmental, and standard employee protective conditions, and the Board authorized a 180-day period for the City of Marion, IA (Marion), and the City of Cedar Rapids, IA, to negotiate an interim trail use/rail banking agreement with CCP. The negotiating period under the NITU was scheduled to expire on April 25, 2003, but was subsequently extended in a number of decisions, with the latest extension expiring on September 30, 2006.¹

On September 25, 2006, Marion filed a request to extend the NITU negotiating period until December 30, 2006, for that portion of the rail line within its corporate city limits. Marion stated that the parties are still in active negotiations, but that the negotiations would not be concluded by the September 30 deadline. CCP filed a letter agreeing to the extension request as to the portion of the line between mileposts ZA 225.7 and ZA 228.45.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and has indicated its willingness to continue negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996). Accordingly, the extension request will be granted as agreed to by CCP.

¹ The decision served on April 23, 2003, modified the NITU to cover only that portion of the line between mileposts ZA 225.7 and ZA 229.1. The decision served on October 29, 2003, modified the NITU to cover only that portion of the line between mileposts ZA 225.7 and ZA 228.45.