

SERVICE DATE – JULY 21, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 435X)

BNSF RAILWAY COMPANY–ABANDONMENT EXEMPTION–  
IN ROCK ISLAND AND WHITESIDE COUNTIES, IL

Decided: July 20, 2006

BNSF Railway Company (BNSF) and Iowa, Chicago & Eastern Railroad Corporation (ICE) (together, Applicants), jointly filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments and Discontinuances of Service for BNSF to abandon, and ICE to discontinue service over, approximately 5.09 miles of railroad between milepost 20.31 and milepost 25.40, near Albany, in Rock Island and Whiteside Counties, IL. Notice of the exemption was served on December 27, 2005, and published in the Federal Register on December 28, 2005 (70 FR 76912-13).<sup>1</sup>

By decision and notice of interim trail use or abandonment (NITU) served on January 25, 2006, the proceeding was reopened and a 180-day period was authorized for the Village of Albany (Village) to negotiate an interim trail use/rail banking agreement with BNSF for the subject line, under the National Trails Act, 16 U.S.C. 1247(d) (Trails Act). The trail use negotiation period under the NITU is scheduled to expire on July 25, 2006.<sup>2</sup>

In a request filed on June 29, 2006, the Village seeks an extension of the trail use negotiating period and the public use condition for an additional 180 days, until January 25, 2007.<sup>3</sup> The Village states that BNSF required it to obtain an MAI certified appraisal prior to commencement of negotiations. The Village states that, because the MAI appraisal has not yet been completed, it is unable to negotiate with BNSF, but that it still desires to do so upon

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<sup>1</sup> The notice served on December 27, 2005, and published on December 28, 2005, also embraced STB Docket No. 987X, Iowa, Chicago & Eastern Railroad Corporation–Discontinuance of Service Exemption–in Rock Island and Whiteside Counties, IL, in which Iowa, Chicago & Eastern Railroad Corporation was granted an exemption to discontinue service over the line.

<sup>2</sup> The January 25, 2006 decision also imposed several environmental conditions, which remain in effect, and a public use condition.

<sup>3</sup> The public use condition, which is limited by statute to 180 days, will expire on July 25, 2006, and may not be extended.

completion of the MAI appraisal. In a facsimile received on July 19, 2006, BNSF indicates that it is not interested in extending negotiations further with the Village for trail use. Because the Trails Act permits only voluntary interim trail use, the Board cannot grant the extension request. See Rail Abandonments–Use of Rights-of-Way as Trails, 2 I.C.C.2d 591 (1986). Accordingly, the Village’s extension request will be denied.

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

It is ordered:

1. The Village’s request to extend the interim trail use negotiating period and the public use condition is denied.
2. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary