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SERVICE DATE - JUNE 27, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-586 (Sub-No. 1X)

NORTH CENTRAL RAILWAY ASSOCIATION, INC.–
ABANDONMENT EXEMPTION–IN FRANKLIN COUNTY, IA

Decided: June 26, 2002

North Central Railway Association, Inc. (NCRA) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 6.25-mile line of railroad between milepost 184.75 near Hampton and milepost 191.0 near Geneva, in Franklin County, IA.¹ On October 23, 2001, a decision and notice of interim trail use or abandonment (NITU) was served that reopened the proceeding and authorized a 180-day period for Iowa Trails Council (ITC) to negotiate an interim trail use/rail banking agreement with NCRA for the entire line. The negotiating period under the NITU was due to expire on April 22, 2002, but was extended to June 21, 2002, by decision served on May 9, 2002.

By facsimile submitted on June 20, 2002, ITC requests an additional 90-day extension of the negotiating period. ITC states that NCRA has indicated that more time is needed to complete negotiations. In its response, NCRA states that it is agreeable to a 90-day extension.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended.² Under the circumstances, an 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), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended for a period of 90 days from June 21, 2002 (until September 19, 2002).

¹ Notice of the exemption was served and published in the Federal Register on September 24, 2001 (66 FR 48908-09).

² See Rail Abandonments Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company–Abandonment in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and SSW Ry. Co.–Aband.–In Smith and Cherokee Counties, TX, 9 I.C.C.2d 406 (1992).

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

It is ordered:

1. The negotiating period under the NITU is extended to September 19, 2002.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary