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SERVICE DATE – NOVEMBER 10, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-314 (Sub-No. 3X)

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

Decided: November 9, 2005

Chicago, Central & Pacific Railroad Company (CC&P) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 0.79-mile line of railroad, the North Cedar Rapids Spur, extending from milepost 87.74 at 16th Street, N.E., to milepost 88.53 near 20th Street N.E., at the end of the track, in Cedar Rapids, Linn County, IA. Notice of the exemption was served and published in the Federal Register on October 12, 2005 (70 FR 59394). The exemption is scheduled to become effective on November 11, 2005.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on October 17, 2005, and requested comments by November 1, 2005. In the EA, SEA stated that, according to CC&P's historic report, there are no buildings, bridges, or structures on the line that are 50 years old or older. However, SEA indicated that the State Historical Society of Iowa (the State Preservation Office or SHPO) was still reviewing the proposed abandonment. Pending the completion of the SHPO's review, SEA recommended that a condition be imposed on any decision granting abandonment authority requiring that CC&P retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act (NHPA), 16 U.S.C. 470f. The SHPO has since notified SEA that it has completed its review and has determined that the proposed abandonment will not affect historic properties listed in or eligible for inclusion in the National Register of Historic Places. Accordingly, the previously recommended section 106 condition will not be imposed.

Only one additional written comment was received after the EA was served. In a letter dated October 17, 2005, the U.S. Army Corps of Engineers' Rock Island District (Corps) indicates that it has no concerns regarding the proposed project.

SEA indicated in the EA that the right-of-way may be suitable for other public use following abandonment. On October 31, 2005, the City of Cedar Rapids, Iowa (the City), filed a request under the National Trails System Act, 16 U.S.C. 1247(d), and 49 CFR 1152.29 for

issuance of a notice of interim trail use (NITU) for the right-of-way, and for a public use condition under 49 U.S.C. 10905.

By facsimile received on November 4, 2005, and letter filed on November 7, 2005, CC&P states that it is not willing to negotiate an agreement for interim trail use/rail banking with the City, and that it opposes the City's request for a public use condition. CC&P asserts that, as discussed in CC&P's notice of exemption, and noted in the Board's notice served and published on October 12, 2005, the abandonment is being undertaken in conjunction with settlement of litigation regarding the right-of-way between CC&P and Cedarapids, Inc. (Cedarapids), an industrial facility that is adjacent to a portion of the right-of-way. According to CC&P, the settlement provided for the transfer of the right-of-way to Cedarapids after Board approval or exemption of the abandonment. CC&P states that the parties have advised the court of the settlement, the litigation has been dismissed, and the transfer is to occur no later than December 30, 2005.

The City's requests for issuance of a NITU and imposition of a public use condition will be denied. Because 16 U.S.C. 1247(d) permits only voluntary interim trail use, the Board cannot issue a NITU in this proceeding. See Rail Abandonments—Use of Rights-of-Way as Trails, 2 I.C.C.2d 591, 598 (1986). The City also requests that the Board impose a public use condition, evidently for the purpose of negotiating for acquisition of the line for use as a trail. Because CC&P has indicated that it will not negotiate for trail use of the line and that it is obligated by agreement to transfer the right-of-way to Cedarapids, a public use condition in this instance would appear to serve no purpose other than to delay disposition of the property. Under the circumstances, a public use condition will not be imposed.

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

It is ordered:

1. This proceeding is reopened.
2. The City's requests for issuance of a NITU and for a public use condition are denied.
3. This decision is effective on its date of service.

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

Vernon A. Williams  
Secretary