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SERVICE DATE - OCTOBER 29, 2003

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 28, 2003

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 authorized a 180-day period for the City of Marion, IA (Marion), and the City of Cedar Rapids, IA (Cedar Rapids), 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. However, by decision served on April 23, 2003, the negotiating period was extended for 180 days, until October 22, 2003, for the parties to complete negotiations for an interim trail use agreement.¹

On October 20, 2003, Marion filed a request to extend the NITU negotiating period for an additional 180 days for that portion of the rail line within its corporate city limits. Marion states that, since negotiations have commenced, the city has been awarded a Brownfields Environmental Assessment Grant by the U.S. Environmental Protection Agency and notes that the project area for the grant includes a substantial portion of the railroad abandonment property. Marion submits that, after consulting with CCP, it has been mutually agreed that meaningful negotiations cannot be undertaken until completion of the environmental assessment and that negotiations should be suspended until that time.

By facsimile filed on October 20, 2003, CCP states that it agrees with the extension request filed by Marion, but only as to that portion of the line between mileposts ZA 225.7 and

¹ The decision served on April 23, 2003 modified the NITU served on October 25, 2002, to cover only that portion of the line between mileposts ZA 225.7 and ZA 229.1.

ZA 228.45. CCP states that Canadian National Railway Company, as agent for CCP, plans to consummate the abandonment between mileposts ZA 228.45 and ZA 229.1.²

Because the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), permits only voluntary interim trail use, the Board cannot grant the extension request for the segment between mileposts ZA 228.45 and ZA 229.1. See Rail Abandonments–Use of Rights-of Way As Trails, 2 I.C.C.2d 591 (1986). As to the remainder of the line, where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the Trails Act.³ Accordingly, the NITU will be further modified to cover only that portion of the line between mileposts ZA 225.7 and ZA 228.45, and the NITU negotiating period will be extended for that portion for an additional 180 days from October 22, 2003.

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

It is ordered:

1. The NITU served on October 25, 2002, is further modified to cover only that portion of the line between mileposts ZA 225.7 and ZA 228.45, and the negotiating period under the NITU is extended for 180 days until April 19, 2004, for that portion of the line.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

² CCP subsequently notified the Board that it consummated the abandonment of the segment between mileposts ZA 228.45 and 229.1 on October 23, 2003.

³ See Rail Abandonments–Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987).