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SERVICE DATE – NOVEMBER 16, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 411X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY  
COMPANY—ABANDONMENT EXEMPTION—IN LAWRENCE COUNTY, AR

Decided: November 15, 2004

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon and discontinue service over a 4.50-mile line of railroad between milepost 397.78 in Hoxie, and milepost 402.28 in Walport, and the 2.20-mile Walnut Ridge Industrial Spur, a total distance of 6.70 miles in Lawrence County, AR. Notice of the exemption was served and published in the Federal Register on April 26, 2004 (69 FR 22595-96). By decision served May 24, 2004, the proceeding was reopened and a 180-day period was authorized for Lawrence County to negotiate an interim trail use/rail banking agreement with BNSF pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), for the right-of-way involved in this proceeding.<sup>1</sup> The negotiating period under the NITU is scheduled to expire on November 22, 2004.

On October 29, 2004, BNSF and Lawrence County filed requests to extend the negotiating period until May 22, 2005. The parties state that, due to ongoing negotiations, additional time is needed.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiation period may be extended.<sup>2</sup> Under the circumstances, an extension of the negotiating period is warranted and will promote the establishment of trail use and rail banking consistent with the Trails Act. Accordingly, the negotiating period will be extended until May 22, 2005.<sup>3</sup>

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<sup>1</sup> In the May 24, 2004 decision, the exemption was made subject to environmental and historic preservation conditions. By decision served July 13, 2004, the historic preservation condition was removed. The other environmental conditions imposed in the May 24 decision remain in effect.

<sup>2</sup> See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987).

<sup>3</sup> Although the requested extension slightly exceeds the customary 180 days, the Board has granted such requests in the past. See, e.g., Southern Pacific Transportation Company—Abandonment

(continued...)

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

It is ordered:

1. BNSF's and Lawrence County's requests to extend the NITU negotiating period are granted.
2. The negotiating period under the NITU is extended to May 22, 2005.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary

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<sup>3</sup>(...continued)

Exemption-In Jackson, Victoria and Wharton Counties, TX, Docket No. AB-12 (Sub-No. 162X)  
(STB served May 29, 1996).