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SERVICE DATE – MARCH 22, 2013

SURFACE TRANSPORTATION BOARD

DECISION AND MODIFICATION OF NOTICE OF INTERIM TRAIL USE OR  
ABANDONMENT

Docket No. AB 6 (Sub-No. 475X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—  
IN BOULDER COUNTY, COLO.

Decided: March 22, 2013

BNSF Railway Company (BNSF) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon 1.37 miles of rail line between milepost 20.80 and milepost 22.17 at Lafayette, in Boulder County, Colo. (the Line). Notice of the exemption was served and published in the Federal Register on September 27, 2011 (76 Fed. Reg. 59,770).

By decision and notice of interim trail use or abandonment (NITU) served October 26, 2011, the proceeding was reopened and a 180-day period was authorized for the City of Lafayette, Colo. (the City) to negotiate an interim trail use/rail banking agreement with BNSF for the right-of-way involved in this proceeding pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act).<sup>1</sup> The trail use negotiation period under the NITU was extended several times, with the decision served on November 19, 2012, extending the negotiation period until February 17, 2013.

In a letter filed on January 10, 2013, BNSF gave notice to the Board that the parties had reached an interim trail use/rail banking agreement for a portion of the 1.37-mile line between milepost 20.8 and milepost 22.05. BNSF requests that the Board modify the NITU and issue a replacement to apply only to that portion of the right-of-way. BNSF states that when the railbanking transaction is completed, it will consummate the abandonment of the remaining

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<sup>1</sup> That decision also imposed a public use condition that expired on April 24, 2012. In a decision served on September 30, 2011, the Board's Office of Environmental Analysis recommended that the Board not impose environmental conditions on any decision granting abandonment authority.

portion of the Line between milepost 22.05 and 22.17, and will notify the Board of the date of consummation.<sup>2</sup>

BNSF has complied with the requirements of 49 C.F.R. 1152.29(d)(2) regarding a request to modify a NITU for a portion of the right-of-way. Therefore, this proceeding will be reopened and a replacement NITU will be issued.

This decision and notice 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 NITU served in this proceeding on October 26, 2011, is vacated.
3. A replacement NITU applicable to the City for the portion of the Line between milepost 20.8 and milepost 22.05 is issued. BNSF may fully abandon the remaining portion of the Line between milepost 22.05 and 22.17.
4. This decision and notice is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

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<sup>2</sup> BNSF is reminded that it has 60 days after satisfaction, expiration, or removal of the legal or regulatory barrier (here, the NITU) to consummate the abandonment of the portion of the Line between milepost 22.05 and 22.17. 49 C.F.R. § 1152.29(e)(2).