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SERVICE DATE – NOVEMBER 18, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-314 (Sub-No. 2X)

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

Decided: November 17, 2004

By decision and notice of interim trail use or abandonment (NITU) served on October 25, 2002, the Board exempted Chicago Central & Pacific Railroad Company (CCP) 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 subsequently extended by decisions served on April 23, 2003, October 29, 2003, and April 21, 2004.<sup>1</sup>

By decision served on October 15, 2004, Marion was granted an extension of the negotiating period under the NITU from October 16, 2004, to April 14, 2005.

On November 1, 2004, Cedar Rapids also filed a request to extend the NITU negotiating period for an additional 180 days for it to continue negotiations for acquisition of the right-of-way. By letter filed on November 8, 2004, CCP indicated that it is not willing to negotiate further with Cedar Rapids for trail use. Because the Trails Act permits only voluntary interim trail use, the Board cannot grant the extension request. See Rail Abandonments–Use of Rights-of-Way as Trails, 2 I.C.C.2d 591 (1986). Accordingly, Cedar Rapids' request will be denied.

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<sup>1</sup> The decision served on April 23, 2003, modified the NITU to cover only that portion of the line between mileposts ZA 225.7 and ZA 229.1. The decision served on October 29, 2003, modified the NITU to cover only that portion of the line between mileposts ZA 225.7 and ZA 228.45.

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

It is ordered:

1. Cedar Rapids' request to extend the interim trail use negotiating period is denied.
2. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary