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SERVICE DATE – JULY 11, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 434X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
FERGUS COUNTY, MT

Decided: July 10, 2006

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a line of railroad between milepost 9.50 near Moore, MT, and milepost 28.35 near Lewistown, MT, the 1.30-mile Berg Lumber Spur (milepost 0.00 – milepost 1.30), and the Heath Spur (milepost 0.00 – milepost 1.10), a total distance of 21.25 miles in Fergus County, MT. Notice of the exemption was served and published in the Federal Register on December 14, 2005 (70 FR 74108-09). The exemption became effective on January 13, 2006.

By decision and notice of interim trail use or abandonment (NITU), served on January 11, 2006, the proceeding was reopened and a 180-day period was authorized for the City of Lewistown, MT (Lewistown), to negotiate an interim trail use/rail banking agreement with BNSF for the right-of-way in this proceeding.¹ The negotiating period under the NITU is scheduled to expire on July 12, 2006.

On July 6, 2006, Lewistown filed a request to extend the NITU negotiating period for an additional 180 days. Lewistown states that the time is needed to complete negotiations to acquire BNSF's right-of-way between Lewistown and Moore, Fergus County, MT. In a response filed on the same day, BNSF states that it does not object to the extension.

Where, as here, the carrier is willing to continue trail use negotiations, the NITU negotiating period may be extended.² An extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended for an additional 180 days from July 12, 2006 (until January 8, 2007).

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

¹ The January 11, 2006 decision and notice also imposed several environmental conditions, which remain in effect.

² See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to January 8, 2007.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary