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SERVICE DATE – LATE RELEASE OCTOBER 18, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 322X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
POLK COUNTY, IOWA

Decided: October 18, 2011

This decision grants an extension of time to exercise the abandonment authority and file a notice of consummation in this proceeding.

Norfolk Southern Railway Company (NSR) and Iowa Interstate Railroad (IAIS) jointly filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service for NSR to abandon, and for IAIS to discontinue service over, a 1.70-mile line of railroad between milepost DU 353.00 and milepost DU 354.70, in Grimes, Polk County, Iowa. Notice of the exemption was served and published in the Federal Register on October 19, 2010 (75 Fed. Reg. 64,392-93) (October 2010 notice).¹ The exemption became effective on November 18, 2010. The notice stated that, if consummation had not been effected by NSR's filing of a notice of consummation by October 19, 2011, and there are no legal regulatory barriers to consummation, the authority to abandon will automatically expire.

By decision and notice of interim trail use or abandonment (NITU) served on November 17, 2010, the proceeding was reopened and a 180-day period was authorized for the City of Grimes, Iowa, to negotiate, pursuant to the National Trails System Act, 16 U.S.C. § 1247(d), an interim trail use/rail banking agreement with NSR for the right-of-way. In a subsequent decision served on May 13, 2011, the NITU negotiating period was extended to November 12, 2011.²

Under 49 C.F.R. § 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings. By letter filed on September 28, 2011, NSR requests an extension until October 19, 2012, for consummating the abandonment. In support, NSR states that salvage of the track and materials on the line is not complete and that trail use negotiations are pending.

¹ The October 2010 notice embraced Docket No. AB 414 (Sub-No. 5X), Iowa Interstate Railroad—Discontinuance of Service Exemption—in Polk County, Iowa.

² Extension of the negotiating period, which is a regulatory barrier to consummation, automatically extended the consummation deadline to January 11, 2012, in any event, assuming no trail use agreement is reached. See 49 C.F.R. § 1152.29(e)(2).

NSR has shown good cause to extend the time to consummate the abandonment and for filing a notice of consummation in this proceeding. Accordingly, the request will be granted.

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

It is ordered:

1. NSR's request for an extension of time to exercise the abandonment authority is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before October 19, 2012.
3. This decision is effective on its service date.

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