

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 403X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY  
COMPANY—ABANDONMENT EXEMPTION—IN SEDGWICK COUNTY, KS

Decided: December 28, 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 its line of railroad, between milepost 494.22 and milepost 505.20 in and near Wichita, KS, and from milepost 515.23 to milepost 509.30 between Wichita and Valley Center, in Sedgwick County, KS, a total distance of 16.91 miles. Notice of the exemption was served and published in the Federal Register on March 24, 2003 (68 FR 14272). The notice stated that, if consummation had not been effected by BNSF's filing of a notice of consummation by March 24, 2004, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.

By decision and notice of interim trail use or abandonment served on April 22, 2003, the proceeding was reopened and a 180-day period was authorized for the City of Wichita (the City) to negotiate an interim trail use/rail banking agreement with BNSF for a 9.78-mile segment of the right-of-way extending from milepost 494.22 at the Butler County/Sedgwick County line, westward to milepost 504.00 near Hydraulic Street, in downtown Wichita, pursuant to the National Trails System Act, 16 U.S.C. 1247(d).<sup>1</sup> The negotiating period was extended by decisions served on October 2, 2003, March 29, 2004 (March 2004 decision), and October 7, 2004.<sup>2</sup> The March 2004 decision also extended the consummation notice filing deadline until December 31, 2004.

On December 23, 2004, BNSF filed a letter stating that it had postponed any salvage activities of the lines pending the outcome of a study commissioned by the City, which examined the possibility of retaining a portion of the issue track as part of an overall rail corridor re-routing plan. In order to reschedule salvaging of the lines, BNSF has requested an extension of the consummation date for abandonment, up to and including December 31, 2005.

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<sup>1</sup> The April 2003 decision also imposed several environmental conditions.

<sup>2</sup> The October 7, 2004 decision extended the interim trail use negotiating period until April 11, 2005.

Under 49 CFR 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. Good cause has been shown and the deadline for filing the notice of consummation will accordingly be extended to December 31, 2005.

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 request for an extension of time to consummate the abandonment is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before December 31, 2005.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary