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SERVICE DATE – JUNE 28, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 408X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN HAMILTON AND
MERRICK COUNTIES, NE

Decided: June 26, 2006

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 15.60-mile line of railroad between BNSF milepost 1.90, near Aurora, and milepost 17.50, near Central City, in Hamilton and Merrick Counties, NE. Notice of the exemption was served and published in the Federal Register on March 22, 2004 (69 FR 13349-50). The notice stated that, if consummation had not been effected by BNSF's filing of a notice of consummation by March 22, 2005, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.

By decision served on April 21, 2004, the proceeding was reopened and the exemption was made subject to several environmental conditions, which remain in effect. By decision and notice of interim trail use or abandonment served on May 26, 2004 (May 26 decision), the proceeding was reopened again to permit interim trail use and public use negotiations.¹ The May 26 decision also granted BNSF's request to amend its notice of exemption to remove a 2.47-mile line segment from the scope of its abandonment, from milepost 1.90 to milepost 4.37.

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. By decisions served on March 7, 2005, and December 29, 2005, the Board granted requests from BNSF for extensions of time to file its notice of consummation, most recently until July 1, 2006. On June 6, 2006, BNSF filed a request to further extend the deadline for filing its notice of consummation until December 31, 2006. BNSF states that scheduling difficulties have hampered the ability to conduct salvage activities. BNSF 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 action will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ The public use condition, which is limited by statute to 180 days, has expired and may not be extended.

It is ordered:

1. BNSF'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 of the abandonment must be filed, on or before December 31, 2006.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary