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SERVICE DATE - OCTOBER 29, 2003

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB-414 (Sub-No. 1X)

IOWA INTERSTATE RAILROAD INC.--ABANDONMENT EXEMPTION--
IN CASS AND AUDUBON COUNTIES, IA

Decided: October 28, 2003

By decision served on August 8, 1995,¹ the Interstate Commerce Commission (ICC)² granted the Iowa Interstate Railroad, Ltd. (IAIS), an exemption under former 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 10903-04 (now 49 U.S.C. 10903) to abandon 20.20 miles of rail line between milepost 445 at or near Atlantic, IA, and milepost 465.20 at or near Audubon, IA, in Cass and Audubon Counties, IA. The exemption was made subject to labor protective, environmental, and public use conditions, and a notice of interim trail use (NITU) was issued to the Iowa Natural Heritage Foundation (INHF),³ which provided the parties 180 days to negotiate an agreement. In a letter filed on February 6, 1999, INHF notified the Board that an interim trail use/rail banking agreement had been reached.

On September 15, 2003, IAIS submitted a letter informing the Board that it had transferred 19.50 miles of the right-of-way to the trail users under the trail use/rail banking agreement, rather than the 20.20 miles stated in the NITU. Specifically, the agreement conveyed the right-of-way from milepost 445 to milepost 464.50 by quitclaim deed,⁴ leaving a .70-mile segment from milepost 464.5 to milepost 465.2 free for IAIS to abandon. As a result, IAIS requests that the NITU, insofar as it relates to the .70-mile portion of right-of-way, be vacated effective immediately.

¹ Notice of the exemption was published in the Federal Register also on August 8, 1995 (60 FR 40388).

² The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the ICC and transferred certain functions and proceedings to the Surface Transportation Board.

³ Although the NITU only listed INHF as the trail user, the request for trail use was filed by INHF, Cass County Conservation Board, Audubon County Conservation Board, and the Iowa Trails Council, who jointly submitted a statement of willingness to assume financial responsibility as required by 49 CFR 1152.29(a)(3).

⁴ IAIS attached a copy of the quitclaim deed as evidence.

IAIS's request to vacate the NITU for the .70-mile portion of the right-of-way will be granted. Because the .70-mile portion of right-of-way was never included as part of the trail use agreement, IAIS was free to abandon it pursuant to the ICC's August 8, 1995 decision. IAIS states that it conveyed this portion of right-of-way to the adjacent property owners.

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

It is ordered:

1. This proceeding is reopened.
2. The NITU served August 8, 1995, is vacated with respect to the .70-mile line segment between milepost 464.50 and milepost 465.20.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary