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SERVICE DATE – JULY 19, 2013

SURFACE TRANSPORTATION BOARD

DECISION

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 6 (Sub-No. 429X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN RAMSEY COUNTY,  
MINN.

Decided: July 16, 2013

On July 21, 2005, BNSF Railway Company (BNSF) and Minnesota Commercial Railway Company (MNCR) jointly filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments for BNSF to abandon, and MNCR to discontinue service over, a 0.67-mile line of railroad between milepost 7.19, a point approximately 100 feet north of Interstate Highway I-694 in White Bear Township, and milepost 6.52, a point approximately 50 feet north of Beam Avenue in Maplewood, in Ramsey County, Minn. (the line). Notice of the exemption was served and published in the Federal Register on August 10, 2005 (70 Fed. Reg. 46,571). By Decision and Notice of Interim Trail Use (NITU) or Abandonment, served on September 8, 2005, the Board reopened the proceeding and modified the notice exempting the abandonment of the line to permit the City of Maplewood (the City) to negotiate with BNSF under section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act), until March 7, 2006, for interim trail use/rail banking of the line. BNSF and the City reached a trail use agreement thereafter.<sup>1</sup>

On July 3, 2013, the City and Ramsey County Regional Railroad Authority (RCRRA), a political subdivision of the State of Minnesota, filed a joint petition pursuant to 49 C.F.R. § 1152.29(f) to reopen the abandonment exemption proceeding, to vacate the existing NITU, and to issue an appropriate replacement NITU to the new trail sponsor, RCRRA.<sup>2</sup> Petitioners have submitted a copy of the extant NITU and a statement by RCRRA of its willingness to assume financial responsibility for interim trail use and rail banking pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29. RCRRA has acknowledged that use of the right-of-way is subject to

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<sup>1</sup> By quitclaim deed dated September 26, 2005, BNSF conveyed the line to the City along with BNSF's right to restore rail service over the right-of-way. See City of Maplewood—Acquisition Exemption—Right to Restore Rail Service Over a Railbanked Right-of-Way in Ramsey Cnty., Minn., FD 35450 (STB served Dec. 23, 2010).

<sup>2</sup> On July 10, 2013, petitioners filed a supplement to their petition.

possible future reconstruction and reactivation of the right-of-way for rail service.<sup>3</sup> Petitioners indicate that responsibility for the right-of-way is to transfer to RCRRA on August 2, 2013.

As supplemented, petitioners' submission meets the requirements of 49 C.F.R. § 1152.29(f). Accordingly, petitioners' request will be granted and a replacement NITU will be issued.

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

It is ordered:

1. This proceeding is reopened.
2. The NITU served on September 8, 2005, is vacated, and a replacement NITU applicable to RCRRA as interim trail sponsor is issued, effective on the service date of this decision and notice.
3. The new trail sponsor is required to assume, for the term of the agreement, full responsibility for: (1) managing the right-of-way, (2) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify the City against any potential liability), and (3) the payment of any and all taxes that may be levied or assessed against the right-of-way.
4. Interim trail use/rail banking is subject to the future restoration of rail service and to the new sponsor's continuing to meet the financial obligations for the right-of-way.
5. If the new trail sponsor intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.
6. This decision is effective on its service date.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.

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<sup>3</sup> In Ramsey County Regional Railroad Authority—Acquisition Exemption—Right to Restore Rail Service Over a Railbanked Right-of-Way in Ramsey County, Minnesota, FD 35750 (STB served July 19, 2013), the Board granted an acquisition exemption authorizing the conveyance of the right to resume service over the line to RCRRA.