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SERVICE DATE - SEPTEMBER 19, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 385X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY--ABANDONMENT EXEMPTION--IN GREENE COUNTY, MO

Decided: September 18, 2000

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 5.82-mile line of its railroad between milepost 189.22 near Springfield and milepost 183.40 near Willard, in Greene County, MO. Notice of the exemption was served and published in the Federal Register on September 16, 1999 (64 FR 50323).¹ On March 23, 2000, a decision and notice of interim trail use or abandonment (NITU) was served, which reopened the proceeding to implement interim trail use/rail banking for the entire line under 49 CFR 1152.29 and the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and provided a 180-day period for Ozark Greenways, Inc. (OGI) to negotiate an interim trail use/rail banking agreement with BNSF for the right-of-way involved in this proceeding. The 180-day period under the NITU is scheduled to expire on September 19, 2000.

On September 11, 2000, OGI filed a request to extend the NITU negotiation period for an additional 180 days. OGI states that OGI and BNSF have been working to complete negotiations, but due to difficulty in determining the legal description, it does not appear that an agreement will be reached by September 19, 2000. In a separate letter filed September 15, 2000, BNSF states that, due to ongoing negotiations, it concurs with OGI's request that the NITU be extended, but only for the portion of the line between milepost 189.18 and milepost 183.40. BNSF states that, in the near future, it plans to convey the remaining portion of the line from milepost 189.22 to milepost 189.18 to the Missouri Highway Department.

¹ By decision served October 14, 1999, the proceeding was reopened at the request of the Board's Section of Environmental Analysis and the exemption was made subject to the conditions that BNSF: (a) retain its interest in and take no steps to alter the historic integrity of the line in its entirety until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f; (b) consult with National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic markers; (c) consult with the Missouri Department of Natural Resources, Water Pollution Program prior to salvage operations concerning storm water discharge; and (d) consult with the U.S. Fish and Wildlife Service prior to salvage operations to determine if any action is necessary to protect the Missouri bladderpod.

Where, as here, the carrier is willing to continue trail use negotiations for the segment between milepost 189.18 and milepost 183.40, the Board may extend the NITU negotiating period for that segment.² Under the circumstances, an extension of the negotiating period is warranted and will promote the establishment of trail use and rail banking consistent with the Trails Act. Accordingly, the negotiating period for this segment will be extended to March 18, 2001.

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

It is ordered:

1. The NITU negotiating period for that portion of the line between milepost 189.18 and milepost 183.40 is extended to March 18, 2001.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

² See Rail Abandonment--Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987).