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SERVICE DATE – DECEMBER 29, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 435X)

BNSF RAILWAY COMPANY–ABANDONMENT EXEMPTION–  
IN ROCK ISLAND AND WHITESIDE COUNTIES, IL

Decided: December 29, 2008

BNSF Railway Company (BNSF) and Iowa, Chicago & Eastern Railroad Corporation (ICE) (together, Applicants), jointly filed a notice of exemption under 49 CFR 1152 Subpart F-Exempt Abandonments and Discontinuances of Service for BNSF to abandon, and ICE to discontinue service over, approximately 5.09 miles of railroad between milepost 20.31 and milepost 25.40, near Albany, in Rock Island and Whiteside Counties, IL. Notice of the exemption was served on December 27, 2005, and published in the Federal Register on December 28, 2005 (70 FR 76912-13).<sup>1</sup> The notice provided that, if consummation of the abandonment had not been effected by BNSF's filing of a notice of consummation by December 27, 2006, 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 (NITU) served on January 25, 2006, the proceeding was reopened and a 180-day period was authorized for the Village of Albany (Village) to negotiate an interim trail use/rail banking agreement with BNSF for the subject line, under the National Trails System Act, 16 U.S.C. 1247(d).<sup>2</sup> The trail use negotiation period under the NITU expired on July 25, 2006. By decision served on July 21, 2006, the Village's request to extend the interim trail use negotiating period and the public use condition was denied. By decisions served on December 14, 2006, and December 18, 2007, the time for BNSF to file a notice of consummation was extended to December 31, 2008.

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<sup>1</sup> The notice served on December 27, 2005, and published on December 28, 2005, also embraced STB Docket No. 987X, Iowa, Chicago & Eastern Railroad Corporation–Discontinuance of Service Exemption–in Rock Island and Whiteside Counties, IL, in which ICE was granted an exemption to discontinue service over the line.

<sup>2</sup> The January 25, 2006 decision also imposed a public use condition, which expired on July 25, 2006, and several environmental conditions related to salvage activities. Those conditions are not a regulatory barrier to consummation of an abandonment. See Consummation of Rail Line Abandonments That Are Subject to Historic Preservation and Other Environmental Conditions, STB Ex Parte No. 678 (STB served Apr. 23, 2008).

By letter filed on December 22, 2008, BNSF has advised the Board that on December 22, 2008, it is consummating the abandonment of a portion of the 5.09-mile line extending between milepost 20.31 and milepost 22.81. In the same letter, BNSF has requested to further extend, until June 30, 2009, the time to file its notice of consummation for the remaining portion of the line, extending between milepost 22.81 and milepost 25.40. BNSF states that it is in negotiations with the Village for a possible sale of the remainder of the line.

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 for the remaining portion of the line will be extended to June 30, 2009.

This action 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 file a notice of consummation for the above-described portion of the line is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before June 30, 2009, for that portion of the line.
3. This decision is effective on its service date.

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

Anne K. Quinlan  
Acting Secretary