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SERVICE DATE – JUNE 22, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-1067 (Sub-No. 2X)

GENERAL RAILWAY CORPORATION d/b/a IOWA NORTHWESTERN RAILROAD—  
ABANDONMENT EXEMPTION—IN OSCEOLA AND DICKINSON COUNTIES, IA

Decided: June 19, 2009

General Railway Corporation d/b/a Iowa Northwestern Railroad (IANW) previously filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon an approximately 36.9-mile line of railroad extending between milepost 215.4, west of Mackenzie Junction, and milepost 252.3, west of Braaksma, in Dickinson and Osceola Counties, IA (the rail line). Notice of the exemption was served and published in the Federal Register on September 25, 2008 (73 FR 55594-95). By decision and notice of interim trail use or abandonment (NITU) served on October 24, 2008, the proceeding was reopened and a 180-day period was authorized for the Iowa Trails Council (the Council)<sup>1</sup>, to negotiate an interim trail use/rail banking agreement with IANW for the right-of-way involved in this proceeding.<sup>2</sup> The trail use negotiating period was scheduled to expire on April 23, 2009.

On April 15, 2009, the Council filed a request for a 180-day extension of the NITU negotiating period. The Council states that it needs more time in which to conclude the negotiations with IANW. On June 9, 2009, IANW filed a letter stating that it concurs with and independently requests the extension of the negotiating period until October 24, 2009.<sup>3</sup>

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board

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<sup>1</sup> The Council represents the interests of the Dickinson Country Trails Board, the Osceola County Conservation Board, and the Cities of Allendorf and Lake Park.

<sup>2</sup> The decision and notice also made the exemption subject to a historic preservation condition and to a public use condition. The public use condition, which is limited by statute to 180 days, expired on April 23, 2009, and may not be extended.

<sup>3</sup> Although the request exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., Southern Pacific Transportation Company—Abandonment Exemption—Wendel-Alturas Line in Modoc and Lassen Counties, CA, Docket No. AB-12 (Sub-No. 184X) (STB served Sept. 1, 2005).

retains jurisdiction, and the NITU negotiating period may be extended.<sup>4</sup> Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996). Accordingly, the NITU negotiating period will be extended until October 24, 2009.

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

It is ordered:

1. The Council's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended through October 24, 2009.
3. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary

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<sup>4</sup> See Rail Abandonments–Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).