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SERVICE DATE - APRIL 23, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-314 (Sub-No. 2X)

CHICAGO CENTRAL & PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN LINN COUNTY, IA

Decided: April 21, 2003

By decision and notice of interim trail use or abandonment (NITU) served on October 25, 2002, the Board granted Chicago Central & Pacific Railroad Company (CCP) an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a segment of the Marion-Louisa Industry Lead, extending from milepost ZA 225.7 to milepost ZA 229.5, a distance of approximately 3.8 miles in Linn County, IA. The exemption was granted subject to trail use, public use, environmental conditions, and standard employee protective conditions, and authorized a 180-day period for the City of Marion, IA (Marion), and the City of Cedar Rapids, IA (Cedar Rapids), to negotiate an interim trail use/rail banking agreement with CCP. The negotiating period under the NITU is scheduled to expire on April 25, 2003.

On April 7, 2003, Marion filed a request to extend the NITU negotiating period for an additional 180 days. Marion states that, although preliminary contacts have been made with CCP, full-scale negotiations and/or agreements have not yet been reached. By letter filed on April 16, 2003, Cedar Rapids makes the same request, indicating that it too is actively negotiating with CCP to complete negotiations for an interim trail use agreement.

By facsimile filed on April 17, 2003, CCP states that it agrees with the requests for extension of the NITU, but only as to that portion of the line between mileposts ZA 225.7 and ZA 229.1. CCP desires to exclude the segment between mileposts ZA 229.1 and ZA 229.5 as it plans to consummate the abandonment of that segment.

Because the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), permits only voluntary interim trail use, the Board cannot grant the extension request for the segment between mileposts ZA 229.1 and ZA 229.5. See Rail Abandonments—Use of Rights-of Way As Trails, 2 I.C.C.2d 591 (1986). As to the remainder of the line, where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the

Trails Act.¹ Accordingly, the NITU will be modified to cover only that portion of the line between mileposts ZA 225.7 and ZA 229.1, and the NITU negotiating period will be extended for that portion for an additional 180 days from April 25, 2003.

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

It is ordered:

1. The NITU served on October 25, 2002, is modified to cover only that portion of the line between mileposts ZA 225.7 and ZA 229.1.
2. The requests to extend the NITU negotiating period are granted for that portion of the line.
3. The negotiating period under the NITU is extended for 180 days to implement interim trail use/rail banking for that portion of the line until October 22, 2003.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

¹ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987).