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SERVICE DATE - AUGUST 27, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-414 (Sub-No. 3X)

IOWA INTERSTATE RAILROAD, LTD.--ABANDONMENT EXEMPTION--
IN MARION AND JASPER COUNTIES, IA

Decided: August 22, 2001

Iowa Interstate Railroad, Ltd. (IAIS) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances to abandon a 13.36-mile line of railroad between milepost 123.50 near Otley and milepost 136.86 near Prairie City, in Marion and Jasper Counties, IA. Notice of the exemption was served and published in the Federal Register on October 20, 2000 (65 FR 63116). On November 20, 2000, a decision and notice of interim trail use or abandonment (NITU) was served, that reopened the proceeding and authorized a 180-day period for the Iowa Natural Heritage Foundation and the Iowa Trails Council (ITC) to negotiate an interim trail use/rail banking agreement with IAIS for the right-of-way involved in this proceeding. The 180-day period under the NITU expired on May 21, 2001, but was extended through August 19, 2001, by decision served May 23, 2001.

By facsimile filed August 15, 2001, ITC requests an extension of the NITU negotiation period for an additional 90 days so that it can complete negotiations with IAIS for acquisition of the right-of-way. In a response submitted by facsimile on August 20, 2001, IAIS states that it is agreeable to an extension to November 19, 2001.

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 retains jurisdiction and the NITU negotiating period may be extended.¹ Under the circumstances, further extension of the negotiation 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), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended to November 19, 2001.

¹ See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company--Abandonment in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and SSW Ry. Co.--Aban.--In Smith and Cherokee Counties, TX, 9 I.C.C.2d 406 (1992).

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

It is ordered:

1. The negotiating period under the NITU is extended to November 19, 2001.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary