

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 464X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN KING COUNTY, WA

Decided: September 24, 2009

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 5.60-mile rail line between milepost 5.00, at Kennydale, and milepost 10.60, at Wilburton, in King County, WA. Notice of the exemption was served and published in the Federal Register on September 26, 2008 (73 FR 55898-99). The exemption became effective on October 28, 2008. The September 26 notice stated that, if consummation has not been effected by BNSF's filing of a notice of consummation by September 26, 2009, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

By decision and notice of interim trail use or abandonment (NITU) served on October 27, 2008 (October 2008 decision), the proceeding was reopened and the exemption was made subject to environmental and historic preservation conditions,¹ as well as a trail use condition authorizing a 180-day period, until April 25, 2009, for King County, WA (King County) to negotiate an interim trail use/rail banking agreement with BNSF. By decision served May 12, 2009, the NITU negotiating period was extended until October 22, 2009.

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. By letter filed September 14, 2009, BNSF requests an extension of the consummation deadline, until April 20, 2010. BNSF states that it is continuing to negotiate with King County regarding trail use and other matters involving related rail lines.² Good cause has been shown, and the deadline for filing the notice of consummation will be extended to April 20, 2010.

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

¹ By decision served on April 7, 2009, the section 106 historic preservation condition was removed. The environmental conditions, as originally imposed in the October 2008 decision, remain in effect.

² The two related rail lines are the subject of the following proceedings: BNSF Railway Company—Abandonment Exemption—in King County, WA, STB Docket No. AB-6 (Sub-No. 463X) and BNSF Railway Company—Abandonment Exemption—in King County, WA, STB Docket No. AB-6 (Sub-No. 465X).

It is ordered:

1. BNSF's request for an extension of time to exercise the abandonment authority is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before April 20, 2010.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary