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SERVICE DATE – DECEMBER 29, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 408X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN HAMILTON AND  
MERRICK COUNTIES, NE

Decided: December 27, 2005

The Burlington Northern and Santa Fe Railway Company, now BNSF Railway Company (BNSF), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 15.60-mile line of railroad between BNSF milepost 1.90, near Aurora, and milepost 17.50, near Central City, in Hamilton and Merrick Counties, NE. Notice of the exemption was served and published in the Federal Register on March 22, 2004 (69 FR 13349-50). The notice stated that, if consummation had not been effected by BNSF's filing of a notice of consummation by March 22, 2005, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.

By decision served on April 21, 2004, the proceeding was reopened and the exemption was made subject to several environmental conditions, which remain in effect. By decision and notice of interim trail use or abandonment (NITU) served on May 26, 2004, the proceeding was reopened again, and a 180-day period was authorized for the Nebraska Trails Foundation, Inc., and the Central City Community Trails Committee of Central City, NE, to negotiate an interim trail use/rail banking agreement and to permit public use negotiations<sup>1</sup> with BNSF, for BNSF's line segment between milepost 4.37, near Aurora, and milepost 17.50, near Central City, NE, under the National Trails System Act, 16 U.S.C. 1247(d).<sup>2</sup> The trail use negotiating period under the NITU was extended to January 26, 2005, by decision served on December 20, 2004.

At the request of BNSF, the deadline to file a notice of consummation was extended to December 31, 2005, by decision served on March 7, 2005. On December 21, 2005, BNSF requested a further extension of time for filing its notice of consummation until July 1, 2006. BNSF states that additional time is needed because winter weather conditions have hampered the ability to conduct salvage activities.

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<sup>1</sup> The public use condition, which is limited by statute to 180 days, has expired and may not be extended.

<sup>2</sup> The May 26, 2004 decision also granted BNSF's request to amend its notice of exemption to remove a 2.47-mile line segment from the scope of its abandonment exemption, accepted the withdrawal of a notice of intent to file an offer of financial assistance (OFA) that had been filed by the Garden City Western Railway, Inc., and terminated the OFA process.

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 accordingly will be extended to July 1, 2006.

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 consummate the abandonment is granted.
2. The authority to abandon must be exercised, and the notice of consummation of the abandonment must be filed, on or before July 1, 2006.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary