

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 322X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
POLK COUNTY, IOWA

Decided: May 13, 2011

This decision grants an extension of time to negotiate a trail use/rail banking agreement.

Norfolk Southern Railway Company (NSR) and Iowa Interstate Railroad (IAIS) jointly filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights for NSR to abandon, and for IAIS to discontinue service over, a 1.70-mile line of railroad between milepost DU 353.00 and milepost DU 354.70, in Grimes, Polk County, Iowa. Notice of the exemption was served and published in the Federal Register on October 19, 2010 (75 Fed. Reg. 64,392-93) (October 2010 notice).¹ The exemption became effective on November 18, 2010.

By decision and notice of interim trail use or abandonment (NITU) served on November 17, 2010, the proceeding was reopened and a 180-day period was authorized for the City of Grimes, Iowa (the City) to negotiate an interim trail use/rail banking agreement with NSR for the right-of-way in this proceeding pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act). The negotiating period under the NITU is scheduled to expire on May 16, 2011.

By letter filed on May 2, 2011, the City submitted a request for an additional 180-day extension of the NITU negotiating period so it can continue negotiations with NSR for the acquisition of the right-of-way for trail use. By letter filed on May 6, 2011, NSR advised the Board that it consents to the extension request.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.² An extension of the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the Trails Act. Accordingly, the NITU negotiating period will be extended for an additional 180 days, to November 12, 2011.

¹ The October 2010 notice embraced Docket No. AB 414 (Sub-No. 5X), Iowa Interstate Railroad—Discontinuance of Service Exemption—in Polk County, Iowa.

² See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

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

It is ordered:

1. The City's request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended to November 12, 2011.
3. This decision is effective on its service date.

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