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SERVICE DATE – MARCH 22, 2013

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 6 (Sub-No. 486X)

BNSF RAILWAY COMPANY—ABANDONMENT
EXEMPTION—IN FULTON COUNTY, ILL.

Decided: March 22, 2013

BNSF Railway Company (BNSF) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon 14.5 miles of rail line between milepost 52.2 in Farmington and milepost 66.7 in Dunfermline, in Fulton County, Ill. Notice of the exemption was served and published in the Federal Register on January 24, 2013 (78 Fed. Reg. 5,244).

The exemption was scheduled to become effective on February 23, 2013, but a formal expression of intent to file an offer of financial assistance (OFA) was timely filed by Hitchcock Scrap Yard, Inc. (HSY), to purchase all or a portion of the line, which had the effect of automatically staying the effective date of the exemption until March 5, 2013.¹ HSY also requested that the 30-day time period for filing an OFA be tolled for an additional 30 days in order to allow it an adequate opportunity to review and analyze the information requested from BNSF, and to submit its OFA. By decision served March 4, 2013, HSY's extension request was granted, the deadline for HSY to file its OFA was extended to March 25, 2013, and the effective date of the exemption was extended to April 4, 2013.²

On March 5, 2013, BNSF filed a request seeking an additional 30 days to develop the information requested by HSY. Also, BNSF states that, on February 27, 2013, it was notified by HSY that it was interested in purchasing only a portion of the line (between Canton and Dunfermline), but that HSY still had not made a decision as to the exact mileposts. BNSF requests that, before it provides the sought information, the Board require HSY to more

¹ See 49 C.F.R. § 1152.27(c)(2)(i).

² The March 4 decision also imposed an environmental condition and provided that the requests by Canton Park District of Canton, Ill., for issuance of a notice of interim trail use under the National Trails System Act, 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, and for a public use condition under 49 U.S.C. § 10905, would be held in abeyance pending completion of the OFA process.

specifically identify the portion of the line that it desires to purchase. BNSF adds that its abandonment authority should not be delayed indefinitely while HSY decides which segment of the line it seeks to purchase.

BNSF's request for 30 additional days to develop the information HSY seeks will be granted. HSY states in its notice of intent that it is interested in purchasing "all or part of the line" without further specification, and HSY has not yet identified the portion of the line it wishes to purchase. If HSY is interested in purchasing only a portion of the line, and seeks information related only to that portion, it should notify BNSF of the specific line segment no later than 10 days from the service date of this decision. If HSY does not specifically identify the line segment within that time, BNSF will be required only to provide HSY with the information at 49 C.F.R. § 1152.27(a) for the entire line.³

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

It is ordered:

1. BNSF's extension request is granted.
2. HSY should notify BNSF of the specific line segment it seeks to purchase no later than 10 days from the service date of this decision. If HSY does not specifically identify the line segment within that time, BNSF will be required only to provide HSY with the information at 49 C.F.R. § 1152.27(a) for the entire line.
3. BNSF is directed to provide within 30 days of the service date of this decision the requested information to enable HSY to file an OFA and to advise the Board that it has done so. The deadline for HSY to file its OFA is extended until 10 days from the date BNSF complies with HSY's information request and advises the Board that it has done so.
3. The effective date of the exemption is postponed until 10 days after the due date for HSY's OFA.
4. If the OFA process terminates, a decision and notice effective on its service date will be issued to impose interim trail use and a public use condition.
5. This decision is effective on its service date.

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

³ Should HSY file an OFA, it must, at that time, specifically identify the line or portion of the line it is seeking to purchase. See 49 C.F.R. § 1152.27(c)(1)(ii)(A).