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Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

June 22, 2012

ENTERED
Office of Proceedings
June 22, 2012
Part of
Public Record

Re: Western Kentucky Railway, LLC
- Exempt Abandonment -
Webster, Union, Caldwell and Crittenden Counties, Kentucky
STB Docket No. AB-449 (Sub-No. 3X)

Dear Ms. Brown:

I writing on behalf of the applicant Western Kentucky Railway, LLC (“WKRL”) to request reinstatement of the abandonment authority of WKRL, an extension of the consummation date, and an extension of the NITU deadline with respect to the lines in Webster County, Kentucky.

The Board most recently issued and extended NITU’s with Webster County and with Union County by decision served October 12, 2011. Both NITU’s were extended until February 20, 2012. As no deal had been reached with either County, WKRL expected both to file for extensions, and did not file to consummate the abandonment. By letter filed with the Board on May 30, 2012, Webster County has sought an extension of the NITU for the portion of the abandonment lines in Webster County. WKRL has since learned that Union County no longer wants to pursue trail use and rail banking for the portion of the lines in Union County. In the meantime, WKRL proceeded to salvage the lines in accordance with the Board’s orders and the conditions imposed.

As is now apparent, the request for extension filed by Webster County was not made until more than 60 days after the expiration of the previous extension.

As indicated in its letter dated, and filed with the Board on, June 6, 2012, WKRL is supportive of Webster County’s desire to acquire the right of way in Webster County for interim trail use and rail banking. It is disappointed that Union County no longer desires to do so for the lines in Union County, but understands the decision. WKRL and Webster County would be the parties harmed if the Board does not grant the relief requested in this letter. WKRL would be required to retain the right of way (it has already salvaged the line), and if it wanted to convert the portion in Webster County to trail use, go through the cost and expense and time of another abandonment process. Further, Webster County would be delayed in its efforts to acquire the property for interim trail use. (Property owners who have an interest in the right of way in Union County would also be harmed by the delay.) This harm outweighs that harm that might

Pittsburgh

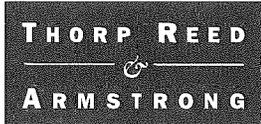
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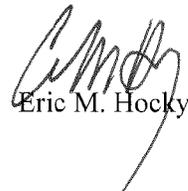
have been caused by the late filing of the extension request, or by allowing a late consummation of the abandonment of the Union County property. Further, the extension of the NITU will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 USC 1247(d).

While the Board will not grant relief from the consummation deadlines as a matter of course, it has done so in similar circumstances. *See CSX Transportation, Inc. – Abandonment Exemption – in Marion County, WV*, STB Docket No. AB-55 (656X), served July 16, 2008 (also confirming that the Board has authority to extend the negotiation period even if the prior extension has expired); *Delta & Southern Railroad, Inc. – Abandonment Exemption – Between Lake Village, Ark. and Shelburn, LA*, STB Docket No. 384 (Sub-No. 1X), served May 17, 2010; *Stockton terminal and Eastern Railroad – Abandonment Exemptin – In San Jaoquin County, CA*, STB docket No. AB-812X, served January 16, 2007.

Accordingly, WKRL requests that (a) the Board reinstate the abandonment authority, (b) the request by Webster County to extend its NITU for 180 days be granted (and the time to consummate the abandonment for the Webster County right of way be extended until 60 days thereafter), and (c) the time for WKRL to consummate the abandonment of the Union County right of way be extended until 30 days the Board acts on this request.

Please let me know if there are any questions about this request. Thank you for your assistance.

Respectfully,



Eric M. Hocky

EMH/e

cc: Jody Jenkins, Judge/Executive, Union County
Brucie W. Moore, County Attorney, Union County
James R. Townsend, Judge/Executive, Webster County
Keith Lovan, Lexington-Fayette Urban County Government (by email)
WKRL (by email)