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SERVICE DATE – FEBRUARY 25, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 257X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN  
BLACKFORD COUNTY, IN

Decided: February 22, 2008

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon an 8.60-mile line of railroad between milepost RK-130.0, at Converse, and milepost RK-138.60, at Hartford City, in Blackford County, IN. Notice of the exemption was served and published in the Federal Register on January 19, 2005 (70 FR 3102-03).

By decision and notice of interim trail use or abandonment (NITU) served on February 17, 2005, the proceeding was reopened and a 180-day period was authorized for the Indiana Trails Fund, Inc. (ITF), to negotiate an interim trail use/rail banking agreement with NSR for the right-of-way in this proceeding.<sup>1</sup> The negotiating period under the NITU was extended by decisions served on September 19, 2005, April 17, 2006, August 17, 2006, February 20, 2007, and September 12, 2007. The latest extension expired on February 3, 2008.

On January 28, 2008, ITF filed a request to extend the NITU negotiating period for an additional 180 days. In a February 13, 2008 reply to ITF's request, NSR states that it does not consent to the extension request. Because the National Trails System Act, 16 U.S.C. 1247(d), permits only voluntary interim trail use, the Board cannot grant the extension request in the absence of NSR's willingness to negotiate regarding interim trail use/rail banking. See Rail Abandonments—Use of Rights-of-Way as Trails, 2 I.C.C.2d 591 (1986). Accordingly, ITF's extension request will be denied.

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

It is ordered:

1. ITF's request to extend the NITU negotiating period is denied.

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<sup>1</sup> The decision and notice also made the exemption subject to several environmental conditions, which remain in effect, and a public use condition, which expired on August 17, 2005, and may not be extended.

2. This decision is effective on its service date.

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

Anne K. Quinlan  
Acting Secretary