

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1031X

EAST TENNESSEE RAILWAY, L.P.—ABANDONMENT EXEMPTION—IN  
WASHINGTON AND CARTER COUNTIES, TENN.

Decided: December 23, 2010

On January 5, 2010, a decision and notice of interim trail use or abandonment (NITU) was served in this proceeding authorizing a 180-day period (until July 4, 2010) for Johnson City, Tenn. (City), to negotiate an interim trail use/rail banking agreement with East Tennessee Railway, L.P. (ETRY) for a segment of ETRY's rail line located between milepost 1.2 in the City and milepost 11.2 at the end of the line in Elizabethton, in Washington and Carter Counties, Tenn.<sup>1</sup> By decision served on July 2, 2010, at the City's request, the NITU negotiating period was extended until December 31, 2010.

By letter filed on December 3, 2010 (December 2010 letter), the City requests an extension of the NITU negotiating period for an additional 180 days, until June 29, 2011. The City states that the parties have exchanged a draft contract and currently are negotiating final terms, but additional time is needed to reach a final agreement, to submit the agreement to the ETRY board and to the Johnson City Commission for approval, and to proceed to closing. The City indicates that it is authorized to state that ETRY consents to the extension request.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. § 1247(d).<sup>2</sup> Accordingly, the NITU negotiating period will be extended for an additional 180 days from December, 31, 2010, until June 29, 2011.

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

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<sup>1</sup> Two conditions also were imposed in that decision, one of which was an environmental condition and one was a historic preservation condition.

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

It is ordered:

1. The City's request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended until June 29, 2011.
3. This decision is effective on the date of service.

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