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SERVICE DATE – AUGUST 10, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1068X

MISSOURI CENTRAL RAILROAD COMPANY—ABANDONMENT AND
DISCONTINUANCE OF SERVICE EXEMPTION—IN CASS COUNTY, MO.

Decided: August 9, 2011

Missouri Central Railroad Company (MCRR) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 5.6-mile railroad line extending between milepost 257.283 (near Wingate) and milepost 262.906 (near Pleasant Hill) in Cass County, Mo. Notice of the exemption was served and published in the Federal Register on November 26, 2010 (75 Fed. Reg. 72,861). In this decision, the Board is granting the request by the Missouri Department of Natural Resources (MDNR) to extend the interim trail use negotiation period.

By decision and notice of interim trail use or abandonment (NITU) served on December 27, 2010, the proceeding was reopened and a 180-day period was authorized for MDNR to negotiate an interim trail use/rail banking agreement with MCRR for the right-of-way involved in this proceeding pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act). By decision served on June 21, 2011, the trail use negotiation period under the NITU was extended until July 25, 2011.¹

On July 20, 2011, MDNR and MCRR jointly filed a motion to extend the time to negotiate interim trail use. MDNR requests an additional 150-day extension of the NITU negotiating period. In support, MDNR states that the parties have substantially agreed to the terms of a trail use agreement but that they need the additional time to finalize and close on the transaction. MCRR agrees to the extension request.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended.² Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d

¹ In addition to interim trail use, the NITU also imposed a public use condition that expired on June 26, 2011, and that may not be extended, and 5 environmental conditions. The 5 environmental conditions remain in effect.

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

580, 588-90 (D.C. Cir. 1996); Grantwood Vill. v. Mo. Pac. R.R., 95 F.3d 654, 659 (8th Cir. 1996). Accordingly, the NITU negotiating period will be extended for an additional 150 days from July 25, 2011, to December 22, 2011.

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

It is ordered:

1. MDNR's request to extend the negotiation period is granted.
2. The negotiating period under the NITU is extended from July 25, 2011, to December 22, 2011.
3. This decision is effective on its service date.

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