

SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: February 20, 2007

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.¹ The negotiating period under the NITU was extended several times, with the latest decision, served on August 17, 2006, extending the NITU negotiating period until February 8, 2007.

By letter filed on February 8, 2007, ITF requests a 180-day extension of the NITU negotiating period. ITF indicates that it is continuing its negotiations with NSR and more time is needed to complete negotiations. NSR responded, stating that it has not consummated the abandonment and that it consents to the 180-day extension.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and has indicated its willingness to continue negotiations by agreeing to an extension, 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 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996). An extension of the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails

¹ 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 See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended for a period of 180 days, from February 8, 2007, to August 7, 2007.

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

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to August 7, 2007.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary