

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 295 (Sub-No. 7X)

THE INDIANA RAIL ROAD COMPANY—ABANDONMENT EXEMPTION—
IN MARTIN AND LAWRENCE COUNTIES, IND.

Decided: March 18, 2011

This decision extends the interim trail use negotiating period for the line of railroad authorized for abandonment in this proceeding.

By decision and notice of interim trail use or abandonment (NITU) served on March 26, 2010 (March 2010 decision), the Board, under 49 U.S.C. § 10502, exempted from the prior approval requirements of 49 U.S.C. § 10903, the abandonment by The Indiana Rail Road Company (INRD) of 22.80 miles of rail line in Martin and Lawrence Counties, Ind. The line is comprised of a 21.15-mile line of railroad extending from milepost 241.35 east of Crane, Ind., to milepost 262.50 in Bedford, Ind. (Crane-Bedford Line), and a track extending from the Crane-Bedford Line at approximately milepost 262.40 and proceeding in an open counter-clockwise loop (east-north-west-south) for approximately 1.65 miles (Bedford Industrial Track). The exemption was subject to public use, historic preservation, environmental, and standard employee protective conditions, as well as a trail use condition authorizing a 180-day period for either the Indiana Trails Fund, Inc. (ITF), or the Greenways Foundation, joined by the City of Bedford, Ind. (Greenways/Bedford), or both, to negotiate an interim trail use/rail banking agreement with INRD for the right-of-way involved in this proceeding. In a decision served on October 7, 2010, the negotiation period was extended until March 21, 2011.¹

On March 2, 2011, INRD filed a request to extend the NITU negotiating period for an additional 180 days. INRD states that the parties need additional time to finalize their agreement. INRD explains that this additional time is required to structure the transaction as a lease, to address the unique issues relating to the portion of the line that lies within the limits of the Crane Naval Surface Warfare Center, and to address the future of the Bedford Industrial Track. By letter filed on March 14, 2011, ITF states that it concurs with INRD's extension request.

By letter filed on March 11, 2011, Everett and June Patrick, landowners who state that their farm is bisected by the INRD rail line, request that the Board deny INRD's request for extension of the NITU negotiating period because, they state, it would be a great disadvantage to

¹ The extension to March 21, 2011 was sought jointly by INRD and ITF; Greenways/Bedford did not seek that extension, nor does it seek one here.

have a trail existing on their property. On March 14, 2011, Anthony and Janet Lynch, who state that their farm is adjacent to the INRD line, similarly filed a letter opposing the requested extension, asserting that it would be highly undesirable to have a public trail adjacent to their farm. The landowners' requests will not be granted. Under the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act), the trail use program is voluntary and consensual between the railroad and the trail user. Rail Abans.—Use of Rights-of-Way as Trails, 2 I.C.C.2d 591, 598 (1986). Further, the Board's role under the Trails Act is limited and largely ministerial. See Citizens Against Rails to Trails v. STB, 267 F.3d 1144 (D.C. Cir. 2001).

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. Because an extension of the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the Trails Act, the requested extension will be granted. Accordingly, as requested by the parties, the NITU negotiation period will be extended 180 days, until September 17, 2011.

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

It is ordered:

1. INRD's request to extend the NITU negotiating period is granted.
2. The period for INRD and ITF to negotiate an interim trail use/railbanking agreement under the NITU is extended to September 17, 2011.
3. This decision is effective on its service date.

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