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SERVICE DATE - MARCH 29, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-167 (Sub-No. 1176X)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT EXEMPTION--  
IN WICOMICO COUNTY, MD

Decided: March 26, 1999

By decision and notice of interim trail use or abandonment (NITU) served on April 15, 1997, the Board modified the prior decision issued in this proceeding (granting an exemption that would permit abandonment of the line in question) to the extent necessary to implement interim trail use/rail banking. The Board authorized a 180-day period for the Maryland Mass Transit Administration (MTA) to negotiate a trail use agreement with Consolidated Rail Corporation (Conrail) regarding: (1) the portion of its Mardella Industrial Track extending from milepost 40.80± to the junction with Conrail's Delmarva Secondary at milepost 42.00±, near Salisbury, MD; and (2) Conrail's Mill Street Industrial Track, extending from the connection with the Mardella Industrial Track at milepost 0.00± to milepost 0.60±, near Salisbury. By decisions served August 28, 1997, and August 7, 1998, the negotiating period was subsequently extended until September 16, 1998, and March 17, 1999, respectively.

On March 11, 1999, MTA filed a third extension request to extend the negotiating period to September 30, 1999.<sup>1</sup> MTA states that Conrail's abandonment of the Mardella and Mill Street Industrial Tracks has not been consummated that the anticipated new owner of the right-of-way, Norfolk Southern Railway Company (NS), has yet to determine whether it will continue service on these lines. MTA states that it remains interested in the continuation of service on the tracks. According to MTA, NS is most likely to decide the question of continued service on these tracks by September 30, 1999. It adds that, if by that date, NS decides not to continue service, MTA may then request a reasonable extension to negotiate an agreement under the National Trails System Act. By letter-fax filed March 16, 1999, Conrail supports the request and states that it has not consummated abandonment of the line.

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<sup>1</sup> Although the request slightly exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., Southern Pacific Transportation Company--Abandonment Exemption--In Jackson, Victoria and Wharton Counties, TX, Docket No. AB-12 (Sub-No. 162X) (STB served May 29, 1996).

An extension of the trail use negotiating period can be granted as long as the Board retains jurisdiction over the involved railroad right-of-way<sup>2</sup> and the carrier is willing to continue negotiations. Inasmuch as Conrail has not consummated the abandonment and has indicated a willingness to continue to negotiate, the extension request can be granted.

The requested extension will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the extension request will be granted.

This action 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 interim trail use negotiating period is granted.
2. The NITU negotiating period is extended to September 30, 1999.
3. This decision is effective on the service date.

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

Vernon A. Williams  
Secretary

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<sup>2</sup> See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).