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SERVICE DATE - DECEMBER 16, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-560 (Sub-No. 1X)

ABERDEEN & ROCKFISH RAILROAD COMPANY D/B/A DUNN-ERWIN RAILWAY--
ABANDONMENT AND DISCONTINUANCE EXEMPTION--IN HARNETT COUNTY, NC

Decided: December 10, 1999

By decision and notice of interim trail use or abandonment (NITU) served July 2, 1999,¹ Aberdeen & Rockfish Railroad Company d/b/a Dunn-Erwin Railway (DER) was granted an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a line of railroad that it owns and discontinue service over a line of railroad that it leases from CSX Transportation, Inc. (CSXT), in Harnett County, NC. The NITU authorized the Sandhills Area Land Trust (SALT) to negotiate an interim trail use/rail banking agreement, under the National Trails System Act, 16 U.S.C. 1247(d), with DER only for the line to be abandoned,² which is approximately 5.488 miles long and extends from milepost SDS 53.00 near Erwin to milepost SDS 56.66 at Dunn, and from milepost SDE 0.00 near Erwin to milepost SDE 2.02 at Erwin.³ The 180-day negotiating period is scheduled to expire on December 29, 1999.

In a decision served on November 29, 1999, North Carolina Rail-Trails, Inc. (NCRT), was authorized to negotiate an interim trail use/rail banking agreement with DER in lieu of SALT pursuant to 49 CFR 1152.29.

On December 2, 1999, NCRT and DER jointly filed a request for an extension of the negotiating period for 120 days. The parties state that NCRT has begun negotiations with DER to effect the trail use condition, the title transfer, the conservation tax credit and charitable donation recognition. Additional time is needed because the parties state that negotiations will take several months.

¹ Notice of the filing was served and published in the Federal Register on April 2, 1999 (64 FR 16022).

² The exemption to discontinue service between milepost SDS 56.66 and milepost SDS 57.01 became effective on August 1, 1999.

³ According to the milepost designations, the line should be 5.68 miles long. It is actually slightly shorter because, according to DER, the mileposts are not accurately placed.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.⁴ NCRT and DER have shown that the additional time is necessary to complete negotiations. An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended for a period of 120 days from December 29, 1999.⁵

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 NITU negotiating period is granted.
2. The NITU negotiating period is extended until April 27, 2000.
3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary

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

⁵ NCRT and DER request that the effective date of the extension be December 24, 1999. The 180-day negotiating period authorized in the July 2, 1999 decision does not expire until December 29, 1999.