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SERVICE DATE – FEBRUARY 23, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 238X)

NORFOLK SOUTHERN RAILWAY COMPANY–ABANDONMENT EXEMPTION–
IN BUCHANAN COUNTY, VA

Decided: February 22, 2007

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 4.0-mile line of railroad between milepost BH-0.0 at Bull Creek and milepost BH-4.0 at Harman, in Buchanan County, VA. Notice of the exemption was served and published in the Federal Register on September 9, 2003 (68 FR 53217).

By decision and notice of interim trail use or abandonment (NITU) served on September 3, 2004, the proceeding was reopened and a 180-day period was authorized for the Buchanan County Board of Supervisors (County) to negotiate an interim trail use/rail banking agreement with NSR for the subject line, under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). The trail use negotiation period under the NITU was scheduled to expire on March 2, 2005, but was extended to February 24, 2007, by decisions served on May 11, 2005, August 31, 2005, March 1, 2006, and August 28, 2006. The August 28, 2006 decision also extended the deadline for NSR to file its notice of consummation until April 25, 2007.

In a facsimile received on February 12, 2007, the County seeks an extension of the negotiating period for 180 days, until August 22, 2007.¹ The County states that it is continuing negotiations with NSR. In a facsimile also received on February 12, 2007, NSR states that it consents to the County's request for an extension. Additionally, NSR requests an extension of the consummation notice filing deadline until October 22, 2007.²

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.³ An extension of the negotiating period will promote the establishment

¹ Because the NITU expires on February 24, 2007, a 180-day extension would run until August 23, 2007.

² Under 49 CFR 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings.

³ See Rail Abandonment–Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

of trails and rail banking consistent with the Trails Act. Accordingly, the NITU negotiating period will be extended until August 23, 2007, and the consummation notice filing deadline will be extended until October 22, 2007. Given the time that has elapsed since abandonment was authorized, the negotiation parties are urged to conclude their negotiations so that further extensions of the NITU negotiating period are not necessary.

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

It is ordered:

1. The County's request to extend the NITU negotiating period and NSR's request for an extension of time to exercise its abandonment authority are granted.
2. The negotiating period under the NITU is extended to August 23, 2007.
3. The authority to abandon must be exercised on or before October 22, 2007.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary