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SERVICE DATE – OCTOBER 4, 2006
SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-868X¹

MISSISSIPPI TENNESSEE HOLDINGS, LLC–ABANDONMENT EXEMPTION–
IN UNION, PONTOTOC AND CHICKASAW COUNTIES, MS

Decided: October 3, 2006

By decision and notice of interim trail use or abandonment (NITU) served on July 26, 2004, the Board granted a petition for exemption under 49 U.S.C. 10502 permitting Mississippi Tennessee Holdings, LLC (MTH) to abandon, and Mississippi Tennessee Railroad, LLC to discontinue service over, a 43.2-mile line of railroad in Union, Pontotoc and Chickasaw Counties, MS, extending from milepost 324.2 near New Albany to the end of the line at milepost 281.0 near Houston, MS. A NITU served on July 6, 2006, established a 90-day period (until October 4, 2006) for the City of New Albany, MS (City), to negotiate an interim trail use/rail banking agreement with MTH for the entire 43.2-mile rail line.

In a letter filed on September 27, 2006, MTH and the City request an extension of the trail use negotiating period until April 3, 2007.²

An extension of the trail use negotiating period may be granted where, as here, the Board retains jurisdiction over the involved railroad right-of-way and the carrier is willing to continue negotiations. Inasmuch as MTH has indicated a willingness to continue to negotiate by requesting an extension, the extension request will be granted. Extension of the NITU negotiating period will promote the establishment of trails and rail banking consistent with the

¹ Prior decisions in this proceeding have also embraced Mississippi Tennessee Railroad, LLC–Discontinuance of Service Exemption–in Union, Pontotoc and Chickasaw Counties, MS, STB Docket No. AB-869X.

² Although the request 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–Wendel-Alturas Line in Modoc and Lassen Counties, CA, Docket No. AB-12 (Sub-No. 184X) (STB served Sept. 1, 2005).

National Trails System Act, 16 U.S.C. 1247(d).³ Accordingly, the NITU negotiating period will be extended to April 3, 2007.⁴

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

It is ordered:

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

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

Vernon A. Williams
Secretary

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

⁴ MTH and the City note that a decision served October 21, 2005, in this proceeding extended the deadline for consummation of the abandonment until November 18, 2006. The parties indicate that the extension appears to have been unneeded because trail use negotiations constitute a regulatory impediment to abandonment, tolling the 1-year period for consummating the abandonment. That extension request by MTH was needed, however, as no impediment to abandonment existed when it was granted. As set forth above, the current NITU, which is the subject of this extension request, was not imposed until July 6, 2006, long after the prior NITU and 1-year consummation period would have expired. Moreover, most parties seek an extension of the consummation notice filing deadline along with their request for an extension of the NITU negotiating period to remove any doubt as to when the notice of consummation must be filed.