

SURFACE TRANSPORTATION BOARD¹

DECISION

Docket No. AB-3 (Sub-No. 127X)

MISSOURI PACIFIC RAILROAD COMPANY--ABANDONMENT EXEMPTION--
IN MUSKOGEE COUNTY, OK

Decided: May 30, 1997

By decision and notice of interim trail use or abandonment (NITU) served February 22, 1996, the Board imposed a 180-day period expiring August 20, 1996, for the Muskogee City-County Port Authority (Port) to negotiate an interim trail use/rail banking agreement with Missouri Pacific Railroad Company (MPRR)² for a portion of the former Oklahoma Subdivision near Muskogee from milepost 128.6 to the end of the line at milepost 129.5, a distance of approximately 0.9-mile in Muskogee County, OK. By decision served August 26, 1996, the negotiating period was subsequently extended for 90 days, until November 18, 1996. In a decision served November 27, 1996, the period was again extended until May 30, 1997.

On May 21, 1997, the Port filed a third extension request to extend the negotiating period for another 180 days to November 26, 1997. The Port states that, although a joint appraisal of the right-of-way is now underway, complex issues remain regarding the final conveyance documents, which will not allow for review and final approval by May 30. MPRR concurs with the request.

An extension of the trail use negotiating period can be granted as long as the Board retains jurisdiction over the involved railroad right-of-way³ and the carrier is willing to continue negotiations. Inasmuch as MPRR 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 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 ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the ICCTA provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the ICCTA. This decision relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903.

² Missouri Pacific Railroad Company merged into Union Pacific Railroad Company on January 1, 1997. For purposes of this decision, we will continue to refer to the carrier as MPRR.

³ See *Rail Abandonment--Supplemental Trails Act Procedures*, 4 I.C.C.2d 152, 157-58 (1987); *Soo Line Railroad Company--Exemption--Abandonment in Waukesha County, WI*, Docket No. AB-57 (Sub-No. 23X) (ICC served May 14, 1987); and *Missouri-Kansas-Texas Railroad Company--Abandonment--In Pettis and Henry Counties, MO*, Docket No. AB-102 (Sub-No. 16) (ICC served Apr. 26, 1991).

1. The request to extend the interim trail use negotiating period is granted.
2. The NITU negotiating period is extended to November 26, 1997.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary