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SERVICE DATE - JANUARY 11, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-406 (Sub-No. 7X)

CENTRAL KANSAS RAILWAY, LIMITED LIABILITY COMPANY
--ABANDONMENT EXEMPTION--
IN BARTON, ELLSWORTH AND RICE COUNTIES, KS

Decided: January 6, 2000

On January 29, 1998, a decision and notice of interim trail use or abandonment (NITU) was served in this proceeding, authorizing a 180-day period for Iowa Trails Council (ITC) to negotiate an interim trail use/rail banking agreement with Central Kansas Railway, Limited Liability Company (CKR) for a 53.2-mile portion of CKR's Little River Subdivision from milepost 577.1 near Lyons to milepost 594.1 near Lorraine, then from milepost 20.7 near Lorraine to milepost 56.9 near Galatia, in Barton, Ellsworth and Rice Counties, KS.¹ In decisions served on July 6, 1998, December 23, 1998, and June 25, 1999, respectively, the negotiating period was extended to December 23, 1998, June 21, 1999, and December 18, 1999.

By letter filed December 27, 1999, ITC has requested an extension of the negotiating period for an additional 180 days in which to conclude negotiations. In a letter filed December 30, 1999, CKR states that it is in agreement with the requested extension, that it has not consummated abandonment of the line, and that it continues to be willing to negotiate to sell the right-of-way for trail use.

An extension of the trail use negotiating period may be granted as long as the Board retains jurisdiction over the involved railroad right-of-way² and the carrier is willing to continue

¹ By decision served July 1, 1997, the Board issued a NITU which authorized a 180-day period for James D. Jennings of Jennings & Co. (Jennings) to negotiate an interim trail use/rail banking agreement with CKR for the right-of-way. On December 24, 1997, ITC requested a NITU to permit it to negotiate with CKR. The negotiating period for Jennings expired on December 28, 1997, and, on January 26, 1998, Jennings submitted a fax transmittal indicating that he was no longer interested in negotiating for interim trail use/rail banking in this proceeding.

² Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction to extend the NITU negotiating period. See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company--Abandonment in Okmulgee, Okfuskee, Hughes, Pontotoc, Coal, Johnson, Atoka, and Bryan

(continued...)

negotiations. Inasmuch as CKR has not consummated the abandonment and has indicated a willingness to continue to negotiate, the extension request can be granted.

The requested extension of the negotiating period 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 request to extend the interim trail use negotiating period is granted.
2. The negotiating period under the NITU is extended for a period of 180 days from December 18, 1999, or until June 15, 2000.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

²(...continued)
Counties, OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and St. Louis Southwestern Railway Company--Abandonment--In Smith and Cherokee Counties, TX, Docket No. AB-39 (Sub-No. 12) (ICC served Mar. 27, 1992).