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SERVICE DATE - LATE RELEASE NOVEMBER 15, 1996

SURFACE TRANSPORTATION BOARD<sup>1</sup>

Docket No. AB-167 (Sub-No. 1143)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT--BETWEEN  
NORTH WARREN AND KENT, IN TRUMBULL AND PORTAGE COUNTIES, OH

Decided: October 30, 1996

By decision and certificate of interim trail use or abandonment (CITU) served on September 22, 1995, the Ohio Rail Development Commission (ORDC) was authorized to negotiate an interim trail use/rail banking agreement with Consolidated Rail Corporation (Conrail) for that portion of its Freedom Secondary line between milepost 164.52, at Leavittsburg, and milepost 182.82, near Ravenna, OH. The trail use negotiation period expired on November 8, 1995.

By letter filed September 23, 1996, ORDC requests an extension of the negotiation period until December 31, 1996, stating that negotiations have continued. Due to an internal reorganization of Conrail, however, negotiations slowed and the CITU negotiation period expired. ORDC states that its offer to purchase the involved right-of-way for trail use is acceptable to Conrail, but that additional time is needed to complete an interim trail use/rail banking agreement. On October 21, 1996, Conrail responded that it has been negotiating with ORDC, that it has not consummated abandonment of the involved portion of rail line, and that it supports extending the negotiation period.

Because Conrail consents to the request for extension of the negotiating period and confirms that it has not consummated abandonment, an extension will be granted until December 31, 1996.<sup>2</sup> This extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act (Trails Act), 16 U.S.C. 1247(d). The purpose of the Trails Act is to preserve rail corridors for possible reactivation of rail service by permitting and encouraging their interim use as recreational trails. See Policy Statement on Rails to Trails Conversion, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990).

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

It is ordered:

1. ORDC's request to extend the interim trail use negotiation period is granted.
2. The CITU negotiation period is extended until December 31, 1996.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary

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<sup>1</sup> 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.

<sup>2</sup> Even if the negotiating period has expired, where a carrier seeks a continuation of the negotiations and has not abandoned the line at the end of the previously imposed period, the Board continues to have jurisdiction to grant an extension. See Consolidated Rail Corp.--Aband. Exempt.--Lancaster and Chester Counties, PA, Docket No. AB-167 (Sub-No. 1095X) (ICC served July 24, 1991).