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SERVICE DATE - JUNE 14, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-478 (Sub-No. 2X)

CHARLES CITY AREA DEVELOPMENT CORPORATION D/B/A CHARLES
CITY RAILWAY--ABANDONMENT EXEMPTION--IN FLOYD COUNTY, IA

Decided: June 12, 2001

Charles City Area Development Corporation d/b/a Charles City Railway (Applicant) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 3.6-mile line of railroad extending from milepost 0.0 to milepost 3.6 within Charles City, Floyd County, IA. Notice of the exemption was served and published in the Federal Register on March 12, 2001 (66 FR 14434-35). On April 18, 2001, a decision and notice of interim trail use or abandonment (NITU) was served, that reopened the proceeding and authorized a 60-day period for the City of Charles City, Iowa (City) to negotiate an interim trail use/rail banking agreement with Applicant for the right-of-way involved in this proceeding.¹ The 60-day period expired on June 10, 2001.

By facsimile received on June 12, 2001, the City filed a request to extend the negotiating period for an additional 60 days in order to complete negotiations with Applicant. By letter filed June 7, 2001, Applicant states that it is agreeable to an extension to August 9, 2001.²

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 and the NITU negotiating period may be extended.³ Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996); cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiation period will be extended to August 9, 2001.

¹ The April 18, 2001 decision also imposed a 60-day public use condition that expired on June 10, 2001.

² The official filing date of the City's request was June 12, 2001, but Applicant clearly was aware of it earlier than that, as reflected by its response filed on June 7, 2001.

³ See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company--Abandonment in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and SSW Ry. Co.--Aban.--In Smith and Cherokee Counties, TX I.C.C.2d 406 (1992).

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The negotiating period under the NITU is extended to August 9, 2001.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary