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SERVICE DATE - LATE RELEASE MAY 24, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-550X

R.J. CORMAN RAILROAD COMPANY/ALLENTOWN LINES, INC.--
ABANDONMENT EXEMPTION--IN LEHIGH COUNTY, PA

Decided: May 23, 2000

R.J. Corman Railroad Company/Allentown Lines, Inc. (RJCN) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 1.945-mile line of railroad known as the Barber's Quarry Industrial Track between milepost 93.144 in the vicinity of Union and 3rd Streets in Allentown and milepost 95.089 in the vicinity of Lawrence Street and Lehigh Parkway in the township of Salisbury, Lehigh County, PA. Notice of the exemption was served and published in the Federal Register on September 8, 1998 (63 FR 47546-47). On October 7, 1998, a decision and notice of interim trail use or abandonment (NITU) was served, that reopened the proceeding to implement interim trail use/rail banking for the entire line under 49 CFR 1152.29 and the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and provided a 90-day period for the County of Lehigh, PA (County), to negotiate an interim trail use/rail banking agreement with RJCN for the right-of-way involved in this proceeding. The negotiating period under the NITU expired on January 6, 1999, but was extended to March 15, 2000 by decision served September 17, 1999.

On May 16, 2000, RJCN filed a request for an extension of the NITU negotiating period for an additional 180 days. On May 17, 2000, the City of Allentown (City) filed a letter stating that it is currently negotiating with RJCN for acquisition of the right-of-way for recreational and trail use and requests an extension of the negotiating period until August 15, 2000. RJCN states that the parties need additional time to continue negotiations.

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.¹ Under the circumstances, an 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, as requested by RJCN, for 180 days from March 15, 2000, or until September 11, 2000.

¹ See Rail Abandonment--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 St. Louis Southwestern Railway Company--Abandonment in Smith and Cherokee Counties, TX, 9 I.C.C.2d 406 (1992).

This decision 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 NITU negotiating period is extended until September 11, 2000.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary