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SERVICE DATE - JANUARY 5, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-103 (Sub-No. 12X)

THE KANSAS CITY SOUTHERN RAILWAY COMPANY--ABANDONMENT
EXEMPTION--IN WEBSTER, BIENVILLE, NATCHITOCHES AND WINN PARISHES, LA

Decided: December 30, 1999

The Kansas City Southern Railway Company (KCS) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 61.62-mile line of railroad between milepost 83.02 at or near Sibley, and milepost 144.64 at or near Carla, in Webster, Bienville, Natchitoches and Winn Parishes, LA. Notice of the exemption was served and published in the Federal Register on June 6, 1997 (62 FR 31188-89). On July 3, 1997, 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 180-day period for the National Salvage & Service Corp. to negotiate an interim trail use/rail banking agreement with KCS for the right-of-way involved in this proceeding. The negotiation period under the NITU expired on January 2, 1998. On November 26, 1997, a NITU was served, which authorized a 180-day period for the Louisiana Department of Culture, Recreation and Tourism to negotiate an interim trail use/rail banking agreement with KCS for the right-of-way involved in this proceeding. The negotiation period under this NITU expired on May 25, 1998. On June 2, 1998, a NITU was served authorizing a 180-day period for the Louisianans for Parks and Tourism (LPT) to negotiate an interim trail use/rail banking agreement with KCS. At the request of LPT, the negotiating period under the NITU was extended by decisions served December 4, 1998, and May 28, 1999. The latest extension expired on November 27, 1999.

By letter filed December 23, 1999, LPT requests an additional 180-day extension of the negotiation period.¹ LPT states that negotiations between the parties have progressed to an agreement concerning the general terms of a purchase contract (with an immediate lease until closing), and the sale price for the real estate for the rail corridor. LPT also states that discussions are continuing concerning the details of the agreement, including the inclusion in the sale of certain properties that are associated with the corridor. Also on December 23, 1999, KCS stated that it had not consummated the abandonment and expressed its agreement to the extension request.

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

¹ LPT was evidently under the impression that the latest extension expired on November 29, 1999. The latest extension actually expired on November 27, 1999.

retains jurisdiction and the NITU negotiating period may be extended.² Under the circumstances, further extension of the negotiating period is warrant. 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 negotiating period will be extended for an additional 180 days from November 27, 1999.

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 May 25, 2000.
2. The decision is effective on its service date.

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

Vernon A. Williams
Secretary

² See Rail Abandonment Supplement 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).