

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 192X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT
EXEMPTION—IN ANDERSON AND WOODFORD COUNTIES, KY

Decided: December 19, 2006

By decision and notice of interim trail use or abandonment (NITU) served on May 28, 2004, a period extending until July 2, 2004 was authorized for the Tyrone Bridge and Rail Company (TBRC) to negotiate an interim trail use/rail banking agreement with the Norfolk Southern Railway Company (NS) for a line of railroad between milepost 0.7-LL, at Lawrenceburg, and milepost 3.5-LL, at Tyrone, in Anderson and Woodford Counties, KY, a distance of approximately 2.8 miles.¹ The negotiation period was extended several times; the latest extension is scheduled to expire on December 19, 2006.

On December 12, 2006, the Board received TBRC's motion to extend the NITU negotiation period for an additional 180 days. TBRC also requests that the Board impose a public use condition on the abandonment authorization. In a response filed on December 12, 2006, NS states that it has not consummated the abandonment and that it consents to the request to extend the trail use negotiation period.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.² An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended through June 17, 2007. Given the time that has elapsed since abandonment authority was granted, the negotiation parties are urged to conclude their negotiations so that further extensions are not necessary.

TBRC's request for a public use condition, however, will be denied. Under 49 U.S.C. 10905 and 49 CFR 1152.28(b), the Board cannot impose a public use condition beyond a 180-day period after the effective date of the decision approving the abandonment (here January 26, 2000). That period ended on July 24, 2000.

¹ This decision vacated the existing NITU and substituted TBRC for the Rails to Trails Conservancy as the entity authorized to negotiate a trail use agreement with NS.

² See Rail Abandments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

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

It is ordered:

1. TBRC's request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended through June 17, 2007.
3. TBRC's request for a public use condition is denied.
4. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary