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SERVICE DATE - MAY 7, 1998

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB-167 (Sub-No. 1165X)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT
EXEMPTION--IN ST. JOSEPH COUNTY, IN

Decided: May 5, 1998

On October 17, 1996, a decision and notice of interim trail use or abandonment (NITU) was served, authorizing a 180-day period for the City of South Bend, IN (City), to negotiate an interim trail use/rail banking agreement with Consolidated Rail Corporation (Conrail) for a 2.0+-mile portion of its line of railroad known as the Plymouth Industrial Track between milepost 179.00+ and railroad milepost 181.00+, in St. Joseph, IN.¹ At the request of the City, the negotiation period under the NITU was extended by decisions served April 25, 1997, and February 19, 1998. The latest extension expired on April 10, 1998.

By letter filed April 10, 1998, the City seeks an additional extension of the negotiation period until June 30, 1998. The City states that Conrail has requested that it perform an appraisal of the right-of-way and that it has finally been able to free up the services of a certified appraiser. The City also renews its concern on the status of title to the right-of-way, which, the City maintains, makes the appraisal a challenging prospect. By letter dated April 30, 1998, Conrail advised the Board that it supports an extension of the trail use negotiation period until June 30, 1998.

The negotiation period under the NITU will be extended to June 30, 1998.² It will promote the establishment of trails and rail banking consistent with the National Trails System 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 Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990).

¹ Notice of the exemption was served and published in the Federal Register on September 17, 1996 (61 FR 49006).

² Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiation period and is willing to continue trail use negotiations, the Board retains jurisdiction to extend the NITU negotiation period. 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 St. Louis Southwestern Railway Company--Abandonment in Smith and Cherokee Counties, TX, Docket No. AB-39 (Sub-No. 12) (ICC served Mar. 27, 1992).

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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 June 30, 1998.
2. This decision is effective on the service date.

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

Vernon A. Williams
Secretary