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SERVICE DATE - JANUARY 30, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-167 (Sub-No. 1168X)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT EXEMPTION--
IN BROOKS AND HANCOCK COUNTIES, WV

Decided: January 29, 1998

By decision and notice of interim trail use or abandonment (NITU) served January 24, 1997, a 180-day period was authorized for West Virginia Rail Authority, City of Weirton and Harmon Creek Trail Association to negotiate an interim trail use/rail banking agreement with Consolidated Rail Corporation (Conrail) for a 4.00-mile portion of the Weirton Secondary Track between milepost 35.70 and milepost 39.70 in Brooke and Hancock Counties, WV.¹ The January 24 decision also imposed a condition requiring Conrail to confine its salvage activities to the existing right-of-way and not disturb any previously undisturbed prime farmland. The initial 180-day period was scheduled to expire on July 25, 1997, but was extended through January 21, 1998, by decision served July 24, 1997.

On January 20, 1998, the Harmon Creek Trail Association, Weirton Park and Recreation Board, and the West Virginia Rail Authority (collectively, petitioners) filed a request for an additional 180-day extension of the negotiation period. Petitioners state that the additional time is needed to resolve the bridge issue, and to coordinate participation of the West Virginia Rail Authority and others, and to further assemble and review information. Petitioners also state that the evaluation of structures on the corridor has begun and Washington County, Pa. Planning is meeting with township officers on the issue. By facsimile dated January 28, 1998, Conrail agreed to the extension.

Because Conrail is willing to continue trail use negotiations with petitioners and an extension of the negotiation period will promote the establishment of trails and rail banking consistent with the National Trails Act, 16 U.S.C. 147(d) (Trails Act), the requested extension will be granted.² The purpose of the Trails Act is to preserve rail corridors for possible reactivation of

¹ Notice of the exemption was published in the Federal Register on December 27, 1996 (61 FR 68334-35).

² Where, as here, the carrier has not consummated the abandonment 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, 157058 (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

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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).

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 July 20, 1998.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

Cherokee Counties, TX, Docket No. AB-39 (Sub-No. 12) (ICC served Mar. 27, 1992).

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