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SERVICE DATE - FEBRUARY 9, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-167 (Sub-No. 1182X)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT  
EXEMPTION--IN INDIANA COUNTY, PA

Decided: February 6, 2001

On July 31, 1998, a decision and notice of interim trail use or abandonment (NITU) was served, authorizing a 180-day period for the Cambria and Indiana Trail Council (CITC) to negotiate an interim trail use/rail banking agreement with Consolidated Rail Corporation (Conrail) for an 11.80-mile portion of the Blairsville Secondary Track between milepost 5.70± and milepost 17.50± in Indiana County, PA. The 180-day negotiating period under the NITU was scheduled to expire on January 27, 1999, but was extended through July 20, 2000, by decisions served February 2, 1999, July 23, 1999, and February 9, 2000.<sup>1</sup>

On January 30, 2001, CITC filed a request to extend the negotiating period until June 26, 2001. CITC states that, due to the acquisition of Conrail by Norfolk Southern Corporation (NS) and subsequent transactions that are still occurring, negotiations between the parties (CITC and Conrail/NS) will require more time. CITC's Chairperson also states that she did not request an extension prior to July 20, 2000, due to illnesses and deaths in her family. By facsimile filed February 2, 2001, NS states that it has not consummated the abandonment and that it supports 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 retains jurisdiction and the NITU negotiating period may be extended.<sup>2</sup> Under the circumstances, further 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 negotiating period will be extended to June 26, 2001.

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<sup>1</sup> Notice of the exemption was published in the Federal Register on March 12, 1998 (63 FR 12148-49).

<sup>2</sup> 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 SSW Ry. Co.--Aban.--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 negotiating period under the NITU is extended to June 26, 2001.
2. The decision is effective on its service date.

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

Vernon A. Williams  
Secretary