

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-976 (Sub-No. 2X)

PITTSBURG & SHAWMUT RAILROAD, LLC—ABANDONMENT EXEMPTION—  
IN CLARION AND JEFFERSON COUNTIES, PA

Decided: January 29, 2010

Pittsburg & Shawmut Railroad, LLC (Pittsburg & Shawmut), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon approximately 35.95 miles of rail line, extending between milepost 6.0 in or near Lawsonham, Clarion County, PA, and milepost 41.95 in Brookville, Jefferson County, PA (Line). On June 28, 2007, notice of the exemption was served and published in the Federal Register (72 FR 35545-46) (June 2007 notice).<sup>1</sup>

By decision and notice of interim trail use or abandonment (NITU) served on July 27, 2007 (July 2007 decision), the proceeding was reopened and a 180-day period was authorized for Allegheny Valley Land Trust (Allegheny Valley) to negotiate an interim trail use/rail banking agreement with Pittsburg & Shawmut for the right-of-way involved in this proceeding, pursuant to the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act).<sup>2</sup> The exemption became effective on July 28, 2007. The trail use negotiating period under the NITU was extended by several decisions, with the most recent decision served on July 28, 2009. The latest extension expired on January 13, 2010.

On January 20, 2010, Allegheny Valley submitted a request for an additional 180-day extension of the NITU negotiating period. Allegheny Valley states that a sales agreement has been reached and that Allegheny Valley is securing the insurance required by the agreement. Allegheny further states that the extension will allow time for a survey of the corridor to be completed and entered into the transaction. On January 14, 2010 (prior to the receipt of Allegheny Valley's NITU extension request), the Board received a letter from Pittsburg & Shawmut stating that it agrees to the request for an extension.

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<sup>1</sup> The June 2007 notice embraced STB Docket No. AB-369 (Sub-No. 6X), Buffalo & Pittsburgh Railroad, Inc.—Discontinuance Exemption—in Clarion and Jefferson Counties, PA.

<sup>2</sup> In addition to interim trail use, the July 2007 decision also imposed a public use condition that expired on January 24, 2008, and may not be extended, and two consultation conditions regarding the salvage of the Line.

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>3</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). An extension of the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the Trails Act. Accordingly, the NITU negotiating period will be extended for an additional 180 days from January 13, 2010, to July 12, 2010.

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

It is ordered:

1. Allegheny Valley's request to extend the NITU negotiating period for an additional 180 days is granted.
2. The negotiating period under the NITU is extended to July 12, 2010.
3. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

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<sup>3</sup> See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).