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SERVICE DATE - MARCH 24, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-437 (Sub-No. 1)

KANSAS SOUTHWESTERN RAILWAY, L.L.C.—ABANDONMENT—IN SUMNER,
HARPER, BARBER, RENO AND KINGMAN COUNTIES, KS

Decided: March 22, 2000

A decision and certificate of interim trail use or abandonment (CITU) was served in this proceeding on June 10, 1999, establishing a 180-day period for the City of Kingman, KS (City), to negotiate an interim trail use/rail banking agreement with the Kansas Southwestern Railway, L.C.C. (KSW), with respect to the 3.4-mile portion of KSW's line between milepost 591.8 and milepost 595.2. The 180-day period under the CITU expired on December 8, 1999.

In a letter filed March 9, 2000, the City requested an approximately 120-day extension of the negotiating period until July 5, 2000, to complete the rail banking agreement. The City also indicates that the parties are negotiating an agreement only for a 1.51-mile portion of KSW's line between milepost 591.8 and milepost 593.31 and requests that the CITU be modified accordingly. By letter filed March 20, 2000, KSW agrees to the extension.

The City's request to modify the CITU to cover the 1.51-mile portion of KSW's line between milepost 591.8 and milepost 593.31 is granted.¹

An extension of the trail use negotiating period may be granted as long as the Board retains jurisdiction over the involved railroad right-of-way² and the carrier is willing to continue negotiations. Inasmuch as KSW has not consummated the abandonment and has indicated a willingness to continue to negotiate, the extension request may be granted.

¹ As a result of this modification, if all conditions previously imposed have been met, KSW may fully abandon the 1.89-mile portion of the line between milepost 593.31 and milepost 595.2.

² 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 to extend the CITU negotiating period. See Rail Abandonments —Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Central Kansas Railway, Limited Liability Company—Abandonment Exemption—in Barton, Ellsworth and Rice Counties, KS, STB Docket No. AB-406 (Sub-No. 7X) (STB served Jan. 11, 2000).

The requested extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the extension will be granted.

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

It is ordered:

1. The CITU is modified as indicated in this decision.
2. The request to extend the interim trail use negotiating period is granted.
3. The negotiating period under the CITU is extended until July 5, 2000.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary