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SERVICE DATE - DECEMBER 23, 1998

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB-167 (Sub-No. 1132X)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT--BETWEEN
BURGETTSTOWN, WASHINGTON COUNTY, PA, AND COLLIERS,
BROOK COUNTY, WV

Decided: December 18, 1998

By decision and notice of interim trail use or abandonment (NITU) served March 7, 1994, a 180-day period was authorized for National Pike Trail Council (NPTC) to negotiate an interim trail use/rail banking agreement with Consolidated Rail Corporation (Conrail) for its 9-mile right-of-way between milepost 26.7± near Burgettstown, PA, and milepost 35.7± near Colliers, WV. At the request of NPTC, and with Conrail's consent, the negotiation period was subsequently extended by decisions served on August 3, 1994, February 10, 1995, July 21, 1995, December 28, 1995, August 20, 1996, January 8, 1997, July 10, 1997, January 9, 1998, and July 10, 1998.

On December 11, 1998, NPTC filed a request for another 180-day extension of the trail use negotiating period. NPTC states that a final agreement is imminent, but that it is unrealistic to expect the parties to settle prior to January 5, 1999, when the most recent extension will expire. NPTC states that the additional time is needed to finalize negotiations, sign documents, and complete the sales transaction. Conrail supports the 180-day extension request.

Where, as here, the carrier has not abandoned the line at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board's jurisdiction is not terminated and the negotiating period may be extended.¹ Under the circumstances, a further extension is warranted and will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended for an additional 180 days from January 5, 1999.²

¹ See Rail Abandonments - Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

² On January 20, 1998, the National Association of Reversionary Property Owners (NARPO) filed a petition for administrative review of the January 9 extension decision. Conrail filed a reply on February 19, 1998. On February 23, 1998, the Harmon Creek Trail Association, Weirton Parks and Recreation Board and the West Virginia Rail Authority filed comments in opposition to NARPO's petition. The granting of this extension request does not prejudice the petition for administrative review, which will be considered in a separate decision.

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

It is ordered:

1. NPTC's request to extend the negotiation period under the NITU for an additional 180 days is granted.
2. The NITU negotiating period is extended through July 4, 1999.
3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary