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SERVICE DATE – FEBRUARY 5, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-868X<sup>1</sup>

MISSISSIPPI TENNESSEE HOLDINGS, LLC–ABANDONMENT EXEMPTION–  
IN UNION, PONTOTOC AND CHICKASAW COUNTIES, MS

Decided: February 4, 2008

By decision and notice of interim trail use or abandonment (NITU) served on July 26, 2004, the Board granted a petition for exemption under 49 U.S.C. 10502 permitting Mississippi Tennessee Holdings, LLC (MTH) to abandon, and Mississippi Tennessee Railroad, LLC (MTR) to discontinue service over, a 43.2-mile line of railroad in Union, Pontotoc and Chickasaw Counties, MS, extending from milepost 324.2 near New Albany to the end of the line at milepost 281.0 near Houston, MS. A NITU served on July 6, 2006, established a 90-day period (until October 4, 2006) for the City of New Albany, MS (City), to negotiate an interim trail use/rail banking agreement with MTH for the entire 43.2-mile rail line. Decisions served on October 4, 2006, and April 19 and August 1, 2007, extended the trail use negotiating period until January 28, 2008.

By letter filed on January 29, 2008, MTH and the City jointly request a 180-day extension of the NITU negotiating period (until July 26, 2008).

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). Accordingly, the NITU negotiating period will be extended for an additional 180 days to July 26, 2008. Given the time that has elapsed since abandonment was authorized, however, the parties are urged to conclude their negotiations so that further extensions will not be necessary.

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<sup>1</sup> Some of the prior decisions in this proceeding have also embraced Mississippi Tennessee Railroad, LLC–Discontinuance of Service Exemption–in Union, Pontotoc and Chickasaw Counties, MS, STB Docket No. AB-869X.

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

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

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended to July 26, 2008.
3. This decision is effective on its service date.

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

Anne K. Quinlan  
Acting Secretary