

20970  
DO

SERVICE DATE- LATE RELEASE NOVEMBER 1, 1996

SURFACE TRANSPORTATION BOARD<sup>1</sup>  
DECISION

Docket No. AB-371 (Sub-No. IX)

CLEARFIELD AND MAHONING RAILWAY COMPANY--ABANDONMENT EXEMPTION--  
BETWEEN C&M JUNCTION AND EAST BICKFORD IN  
CLEARFIELD COUNTY, PA

Docket No. AB-369 (Sub-No. 1X)

BUFFALO & PITTSBURGH RAILROAD, INC.--DISCONTINUANCE EXEMPTION--  
BETWEEN C&M JUNCTION AND EAST BICKFORD IN  
CLEARFIELD COUNTY, PA

Decided: October 29, 1996

On July 1, 1992, a decision and notice of interim trail use or abandonment (NITU) was served, authorizing a 180-day period for the Clearfield County Rails to Trails Association (CCRTA) to negotiate an interim trail use/rail banking agreement with the Clearfield and Mahoning Railway Company (C&M) for its 17.4-mile line of railroad between milepost 0.0 at C&M Junction and milepost 17.4 past East Bickford, near Curwensville on the Buffalo & Pittsburgh Railroad, Inc.'s (B&P) Clearfield Subdivision in Clearfield County, PA.<sup>2</sup>

---

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (the ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the ICCTA provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the ICCTA. This decision relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this decision applies the law in effect prior to the ICCTA, and citations are to the former sections of the statute, unless otherwise indicated.

<sup>2</sup> During the negotiation periods, Consolidated Rail Corporation (Conrail) petitioned the agency for an exemption under 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 11343-4S to acquire control of and to operate C&M, and to acquire B&P's leasehold interest and majority stock interest in C&M. The control and operation of C&M was exempted in Consolidated Rail Corporation--Control and Operation Exemption--Clearfield and Mahoning Railway Company, Finance Docket No. 32256 (ICC served Dec. 7, 1995). Notice of this exemption was published in the Federal Register on December 11, 1995 (60 FR 63545). This exemption proceeding was handled in a single decision with two other proceedings, Bradford Industrial Rail, Inc.--Acquisition and Operation Exemption--Consolidated Rail Corporation, Finance Docket No. 32240, and Genesee & Wyoming Industries, Inc.--Continuance in Control Exemption--Bradford Industrial Rail, Inc., Finance Docket No. 32241.

Conrail gave notice by letter dated May 14, 1996 that, effective January 26, 1996, it had sold its interest in C&M to Richard J. Corman (Corman). On January 22, 1996, Mr. Corman and R.J. Corman Railroad Company/Pennsylvania Lines, Inc. (RJCP) petitioned the agency for exemptions under new 49 U.S.C. 10502 from the prior approval requirements of new 49 U.S.C. 11323 et seq. for Corman to control and RJCP to lease and operate C&M. Those requests were granted in Richard J. Corman--Control Exemption--Clearfield & Mahoning Railway Company, S.B. Finance Docket No. 32854, and R.J. Corman Railroad Company/Pennsylvania Lines, Inc.--Lease and Operation Exemption--Clearfield & Mahoning Railway Company, S.B. Finance Docket No. 32861 (both S.B. served June 21, 1996).

By decision served May 30, 1996, CCRTA was granted a seventh extension of time of 180 days to negotiate for trail use, and that extension expired on October 22, 1996.<sup>3</sup> In that decision, CCRTA and Corman, the current owner of the line, were urged to conclude their negotiations before October 22, if possible.

By petition filed October 15, 1996, CCRTA filed an eighth request to extend the trail use negotiation period until April 20, 1997. CCRTA states that since Corman has only recently obtained owners' hip interest in the properties, it was not feasible for Corman to fully access the subject property and begin negotiations until recently. However, CCRTA states that good faith negotiations have been initiated between the parties, that a general outline of an agreement satisfactory to both parties has been tentatively reached (with numerous details requiring additional negotiations), and that these negotiations will hopefully lead to a final agreement for CCRTA to acquire the property. By letter received October 23, 1996, Corman states that it supports the extension request.

As stated by CCRTA, the parties were not able to complete negotiations by October 22. The parties are urged to conclude their negotiations and reach a final agreement during the extended period granted here as over four years have passed since issuance of the July 1, 1992 NITU permitting the parties to negotiate a trail use/rail banking agreement.

An extension will promote the establishment of trail use and rail banking consistent with the Trails Act, 16 U.S.C. 1247(d). Accordingly, the 180-day extension request 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 request to extend the interim trail use negotiation period is granted.
2. The NITU negotiation period is extended to April 20, 1997.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary

---

<sup>3</sup> Even if the negotiating period has expired, where a carrier seeks continuation of the negotiations and has not abandoned the line at the end of the previously imposed period, the Board continues to have jurisdiction to grant an extension. See Consolidated Rail Corp.--Aband. Exemp.--Lancaster and Chester Counties, PA, Docket No. AB-167 (Sub-No. 1095X) (ICC served July 24, 1991).

