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SERVICE DATE - JULY 20, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-167 (Sub-No. 1168X)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT EXEMPTION--
IN BROOKS AND HANCOCK COUNTIES, WV

Decided: July 14, 1998

By decision and notice of interim trail use or abandonment (NITU) served January 24, 1997, a 180-day period was authorized for West Virginia Rail Authority, City of Weirton and Harmon Creek Trail Association (collectively, commenters) to negotiate an interim trail use/rail banking agreement with Consolidated Rail Corporation (Conrail) for a 4.00-mile portion of the Weirton Secondary Track between milepost 35.70 and milepost 39.70 in Brooke and Hancock Counties, WV.¹ The January 24 decision also imposed a condition requiring Conrail to confine its salvage activities to the existing right-of-way and not disturb any previously undisturbed prime farmland. The negotiation period under the NITU was extended to January 21, 1998 by decision served July 24, 1997 at the request of commenters. By decision served January 30, 1998, the negotiation period under the NITU was further extended to July 20, 1998, at the request of the Harmon Creek Trail Association, Weirton Park and Recreation Board, and the West Virginia Rail Authority (collectively, petitioners).

On July 6, 1998, petitioners filed a request for an additional 180-day extension of the trail use negotiation period. Petitioners state that the additional time is needed to complete negotiations because the pending acquisition of Conrail has added a new dimension to the proposed trail project. Petitioners also state that additional time is required to continue negotiations over the issue of railroad crossings over public roadways. The Pennsylvania Public Utility Commission has ordered a moratorium on the disposition of railroad bridges suitable for potential trail use. Petitioners need to resolve the bridge issue and to coordinate with the Washington County Commission and others to develop plans for an environmental report and bridge repair or removal estimates. By letter dated July 13, 1998, Conrail agreed to the extension.

Where, as here, the carrier has not abandoned the line at the end of the previously imposed negotiation period and is willing to continue trail use negotiations, the Board's jurisdiction is not terminated and the negotiating period may be extended.² Under the circumstances, a further

¹ Notice of the exemption was published in the Federal Register on December 27, 1996 (61 FR 68334-35).

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

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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 negotiating period will be extended for an additional 180 days from July 20, 1998.

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

It is ordered:

1. The negotiating period under the NITU is extended to January 16, 1999.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary