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SERVICE DATE – JULY 17, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-254 (Sub-No. 7X)

PROVIDENCE AND WORCESTER RAILROAD COMPANY—ABANDONMENT  
EXEMPTION—IN WORCESTER COUNTY, MA, AND WINDHAM COUNTY, CT

Decided: July 13, 2006

Providence and Worcester Railroad Company (P&W) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a portion of its line of railroad known as the Southbridge Running Track, extending from milepost 0.18, in Webster, MA, to milepost 10.98, in Southbridge, MA, a distance of approximately 10.8 miles, in Worcester County, MA, and Windham County, CT. Notice of the exemption was served and published in the Federal Register on November 4, 2003 (68 FR 62497-98).

By decision and notice of interim trail use or abandonment (NITU) served on January 27, 2005, the proceeding was reopened and the State of Connecticut Department of Environmental Protection (CTEP) was granted a 180-day period to negotiate an interim trail use/rail banking agreement with P&W for the 3.4-mile portion of the rail line from milepost 1.39, in Thompson, to milepost 4.8, in Quinebaug, CT, under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act).<sup>1</sup> The negotiating period under the NITU was extended by decisions served on August 3, 2005, and October 25, 2005. The latest extension expired on April 26, 2006.

On June 29, 2006, CTEP filed a request to extend the NITU negotiating period until October 26, 2006.<sup>2</sup> CTEP states that it is continuing to negotiate with P&W, but more time is

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<sup>1</sup> The Commonwealth of Massachusetts, by and through its Executive Office of Transportation and Construction, negotiated an interim trail use/rail banking agreement with P&W for the portion of the right-of-way between milepost 0.18, in Webster, and milepost 1.4 +/-, in Dudley, and between milepost 4.8 +/-, in Dudley, and milepost 10.98, in Southbridge, MA. By letter filed on September 13, 2004, P&W gave notification that a trail use/rail banking agreement had been consummated with regard to the portion of the line located in Massachusetts.

<sup>2</sup> Although the request slightly exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., CSX Transportation, Inc.—Abandonment Exemption—In Jefferson County, AL, STB Docket No. AB-55 (Sub-No. 613X) (STB served Oct. 22, 2004).

needed to complete negotiations. In a response received on July 7, 2006, P&W concurs in the request to extend the negotiating period.

Where, as here, the carrier has not consummated abandonment at the end of the previously imposed negotiating period and has indicated its willingness to continue negotiations by requesting an extension, the Board retains jurisdiction and the NITU negotiating period may be extended. 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). An extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the Trails Act.<sup>3</sup> Accordingly, the NITU negotiating period will be extended until October 26, 2006.

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 NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to October 26, 2006.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary

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<sup>3</sup> See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).