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SERVICE DATE - OCTOBER 26, 1998

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB-290 (Sub-No. 169X)

NORFOLK AND WESTERN RAILWAY COMPANY--ABANDONMENT  
EXEMPTION--BETWEEN FERGUSON JUNCTION AND GLEN ECHO, MO

Decided: October 22, 1998

A Notice of Interim Trail Use or Abandonment (NITU) was served on May 4, 1995, establishing a 180-day period for Trailnet, Inc. (Trailnet),<sup>1</sup> to negotiate an interim trail use/rail banking agreement with Norfolk and Western Railway Company (NW) for the right-of-way involved in this proceeding. The negotiation period under the NITU was subsequently extended by decisions served on October 27, 1995, May 1, 1996, October 25, 1996, April 25, 1997, November 6, 1997, and April 30, 1998. The latest extension expired on October 17, 1998.<sup>2</sup>

On October 16, 1998, Trailnet filed a request for an additional 180-day extension of the negotiation period. Trailnet states that it and NW are continuing to negotiate an interim trail use/rail banking agreement for the railway corridor. By letter dated October 21, 1998, NW advised the Board that it supports the 180-day extension request.

Because NW consents to the request for extension of the negotiating period and confirms that it has not consummated the abandonment, an extension will be granted until April 15, 1999.<sup>3</sup> This extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). The purpose of the Trails Act is to preserve rail corridors for possible reactivation of rail service by permitting and encouraging their

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<sup>1</sup> Trailnet, Inc., was formerly Gateway Trailnet, Inc.

<sup>2</sup> NW filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon its 2.56-mile line of railroad between milepost UD-9.94 at Glen Echo and milepost UD-12.50 at Ferguson Junction in St. Louis County, MO. Notice of the exemption was served and published in the Federal Register on April 5, 1995 (60 FR 17367-68).

<sup>3</sup> Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiation period and is willing to continue trail use negotiations, the Board retains jurisdiction to extend the NITU negotiation period. See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company--Abandonment in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and , St. Louis Southwestern Railway Company--Abandonment in Smith and Cherokee Counties, TX, Docket No. AB-39 (Sub-No. 12) (ICC served Mar. 27, 1992).

Docket No. AB-290 (Sub-No. 169X)

interim use as recreational trails. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990).

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 April 15, 1999.
2. The decision is effective on its service date.

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

Vernon A. Williams  
Secretary