

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-167 (Sub-No. 1176X)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT EXEMPTION--
IN WICOMICO COUNTY, MD

Decided: August 26, 1997

By decision and notice of interim trail use or abandonment (NITU) served April 15, 1997, the Board modified the prior decision issued in this proceeding (granting an exemption that would permit abandonment of the line in question) to the extent necessary to implement interim trail use/rail banking. The Board authorized a 180-day period for the Maryland Mass Transit Administration (MTA) to negotiate a trail use agreement with Consolidated Rail Corporation (Conrail) regarding: (1) the portion of its Mardella Industrial Track extending from milepost 40.80± to the junction with Conrail's Delmarva Secondary at milepost 42.00±, near Salisbury, MD; and (2) its Mill Street Industrial Track extending from the connection with the Mardella Industrial Track at milepost 0.00± to milepost 0.60±, near Salisbury. The negotiation period is scheduled to expire on September 17, 1997.

MTA, by letter dated August 1, 1997, requests that the negotiation period be extended for one year to expire on September 16, 1998. By letter filed August 12, 1997, the City of Salisbury, supports the request. Conrail, by letter filed August 15, 1997, concurs in the request and certifies that it has not consummated the abandonment.

While the request for an extension of one year is unusual, it is not unreasonable, given the circumstances. Conrail avers that it is continuing to provide service on both the Mardella and Mill Street tracks, and that Norfolk Southern Railway Company (NS) may elect to continue rail service on the lines.¹ While the continuation of service effectively delays the need for rail banking the line and is likely incompatible with completion of trail use negotiations at this time, granting the sought extension will preserve MTA's rights in the event a decision is made to discontinue service and move toward consummation of the abandonment authority. There is no evidence that any interests would be harmed by extension of the NITU for a year instead of the customary 180-day period under these circumstances. Where, as here, the carrier has not abandoned the line 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 extension is warranted and will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the extension request will be granted and the negotiating period will be extended for an additional one year period.

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 negotiating period is granted.

¹ NS is proposing to acquire the line as part of the transactions proposed in STB Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company--Control and Operating Leases/Agreements--Conrail, Inc. and Consolidated Rail Corporation. The Board is scheduled to issue a final decision in that proceeding on June 8, 1998.

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

2. The NITU negotiating period is extended to September 16, 1998.
3. This decision is effective on the service date.

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

Vernon A. Williams
Secretary