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SERVICE DATE – AUGUST 24, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 506 (Sub-No. 1X)

SAULT STE. MARIE BRIDGE COMPANY—ABANDONMENT EXEMPTION—IN  
DICKINSON COUNTY, MICH.

Decided: August 23, 2010

Sault Ste. Marie Bridge Company (SSMB) filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F-Exempt Abandonments to abandon a 0.64-mile rail line between mileposts 29.60 and 30.24 in Iron Mountain, Dickinson County, Mich. Notice of the exemption was served and published in the Federal Register on July 22, 2008 (73 Fed. Reg. 42,651). The exemption was scheduled to become effective on August 21, 2008.

By decision and notice of interim trail use or abandonment (NITU) served on August 20, 2008, the proceeding was reopened and the exemption was made subject to interim trail use/rail banking and public use. A 180-day period was authorized to permit public use negotiations<sup>1</sup> and to permit the Michigan Department of Natural Resources (MDNR) to negotiate an interim trail use/rail banking agreement with SSMB for the described line. The negotiating period under the NITU was scheduled to expire on February 17, 2009. Also, in the same decision, the Board imposed four environmental conditions requiring SSMB to consult with: (1) the Michigan Department of Environmental Quality (DEQ), Remediation and Redevelopment Division, (2) DEQ, Land and Water Management Division (Upper Management District Office), (3) DEQ (Crystal Falls Field Office), and (4) the U.S. Fish and Wildlife Service, East Lansing Field Office, prior to the onset of salvage activities.

By decisions served on February 26, 2009, August 26, 2009, and March 2, 2010, the Board extended the NITU negotiating periods to August 16, 2009, February 12, 2010, and August 11, 2010, respectively. On August 11, 2010, MDNR filed a request to extend the NITU negotiating period for an additional 180 days. MDNR states that the parties are continuing negotiations and expect to complete an agreement within the 180-day period requested. On August 12, 2010, SSMB filed a letter stating that it agrees with the extension request.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended.<sup>2</sup> Under the

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<sup>1</sup> The 180-day public use negotiation period expired on February 17, 2009.

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

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), cert. denied, 519 U.S. 1149 (1997). An extension of time will promote the establishment of trails and rail banking consistent with the Trails Act. Accordingly, the NITU negotiating period will be extended for 180 days, from August 11, 2010 to February 7, 2011. Given the time that has elapsed since abandonment was granted, the negotiating parties are urged to conclude their negotiations so that further extensions are not necessary.

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

It is ordered:

1. MDNR's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended until February 7, 2011.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.