

32237
DO

SERVICE DATE - OCTOBER 18, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-550X

R.J. CORMAN RAILROAD COMPANY/ALLENTOWN LINES, INC.–
ABANDONMENT EXEMPTION–IN LEHIGH COUNTY, PA

Decided: October 15, 2001

R.J. Corman Railroad Company/Allentown Lines, Inc. (RJCN) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 1.945-mile line of railroad known as the Barber's Quarry Industrial Track between milepost 93.144 in the vicinity of Union and 3rd Streets in Allentown and milepost 95.089 in the vicinity of Lawrence Street and Lehigh Parkway in the township of Salisbury, Lehigh County, PA. Notice of the exemption was served and published in the Federal Register on September 8, 1998 (63 FR 47546-47). On October 7, 1998, a decision and notice of interim trail use or abandonment (NITU) was served, that reopened the proceeding to implement interim trail use/rail banking for the entire line under 49 CFR 1152.29 and the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and provided a 90-day period for the County of Lehigh, PA (County), to negotiate an interim trail use/rail banking agreement with RJCN for the right-of-way involved in this proceeding. The negotiation period under the NITU expired on January 6, 1999, but was extended at the request of the County to March 15, 2000, by decision served September 17, 1999. The negotiation period was extended several times at the request of RJCN and the City of Allentown (City);¹ the latest extension expired on August 10, 2001.

By letter filed October 10, 2001, the City filed a request to extend the NITU negotiation period until December 31, 2001. The City states that it is currently negotiating with RJCN for the acquisition of the right-of-way. On October 9, 2001, RJCN advised that it concurs with the extension request.²

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

¹ The negotiating period under the NITU was extended by decisions served May 24, 2000, September 21, 2000, January 16, 2001, April 23, 2001, and June 20, 2001.

² The official filing date of the City's request was October 10, 2001, but RJCN clearly was aware of it earlier than that, as reflected by its response on October 9, 2001.

retains jurisdiction and the NITU negotiating period may be extended.³ Under the circumstances, an 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). Accordingly, the NITU negotiation period will be extended, as requested by the City, to December 31, 2001.

This decision 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.
2. The NITU negotiating period is extended until December 31, 2001.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

³ See Rail Abandonment--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, 9 I.C.C.2d 406 (1992).