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SERVICE DATE - FEBRUARY 19, 1998

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB-167 (Sub-No. 1165X)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT
EXEMPTION--IN ST. JOSEPH COUNTY, IN

Decided: February 13, 1998

On October 17, 1996, a decision and notice of interim trail use or abandonment (NITU) was served, authorizing a 180-day period for the City of South Bend, IN (City), to negotiate an interim trail use/rail banking agreement with Consolidated Rail Corporation (Conrail) for a 2.0+-mile portion of its line of railroad known as the Plymouth Industrial Track between milepost 179.00+ and railroad milepost 181.00+, in St. Joseph, IN. The initial 180-day negotiating period expired on April 15, 1997, but was extended through October 12, 1997, by decision served April 25, 1997.

By letter filed January 15, 1998, the City requests that the negotiation period be extended for a one-year period, until October 11, 1998.¹ The City states that Conrail has requested that it perform an appraisal of the right-of-way. However, the local appraisers were unable to submit quotes due to the heavy activity relative to other projects in the community. The City also states that the appraisers indicated that proper title of the right-of-way should be resolved, and that a local title company, familiar with railroad easements, has been unable to determine the form of ownership of the right-of-way. Finally, the City states that it is actively pursuing a thorough search of alternative information sources to resolve the ownership question. By letter dated February 12, 1998, Conrail replied to the extension request, stating that it supports only a 180-day extension of the negotiation period.²

The negotiation period under the NITU will be extended to April 10, 1998.³ It will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16

¹ The City states that it mailed its extension request on October 7, 1997. The Board's records do not reflect receipt of that extension request. Therefore, the City has reiterated its request.

² Conrail states that it was not served with either of the City's extension requests.

³ Even if the negotiating period has expired, where a carrier supports continuation of the negotiations and has not abandoned the line at the end of the previously imposed period, the Board continues to have jurisdiction to grant an extension. See Consolidated Rail Corp.--Aband. Exempt.--Lancaster and Chester Counties, PA, Docket No. AB-167 (Sub-No. 1095X) (ICC served July 24, 1991).

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U.S.C. 1247(d). The purpose of the Trails Act is to preserve rail corridors for possible reactivation of rail service by permitting and encouraging their interim use as recreational trails. The purpose of the Trails Act is to preserve rail corridors for possible reactivation of rail service by permitting and encouraging their 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 10, 1998.
2. This decision is effective on the service date.

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

Vernon A. Williams
Secretary