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SERVICE DATE - APRIL 12, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-854X

ALLEGHENY & EASTERN RAILROAD, INC.—ABANDONMENT EXEMPTION—IN ELK
AND CAMERON COUNTIES, PA

Decided: April 8, 2004

Allegheny & Eastern Railroad, Inc. (A&E), filed a notice of exemption under 49 CFR 1152 Subpart F-Exempt Abandonments to abandon a 18.9-mile line of railroad extending between milepost 131, near St. Marys, in Elk County, and milepost 149.9, southeast of Emporium, in Cameron County, PA. Notice of the exemption was served and published in the Federal Register on September 30, 2003 (68 FR 56377-78). The exemption was scheduled to become effective on October 31, 2003.

By decision and notice of interim trail use or abandonment (NITU) served on October 30, 2003, the proceeding was reopened and the exemption was made subject to interim trail use/rail banking and public use conditions, and the conditions that A&E shall: (1) consult with the National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic markers; (2) consult with the Pennsylvania Department of Environmental Protection concerning the salvage or retention of abandoned stream crossings; and (3) retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way until the completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f. By decision served on December 1, 2003, the section 106 historic preservation condition was removed. The two other imposed conditions remain in effect. A 180-day period (until April 28, 2004) was authorized to permit public use negotiations and to permit the County of Cameron (Cameron County), in cooperation with the County of Elk (Elk County), to negotiate an interim trail use/rail banking agreement with A&E for the described line.

On March 24, 2004, Cameron County filed a request to extend the NITU negotiating period for an additional 180 days.¹ Cameron County states that it has had discussions with A&E but needs more time to finalize trail negotiations. In a response filed April 2, 2004, A&E concurs in the request to extend the negotiation period, but only for 90 days.

¹ By letter dated March 25, 2004, and filed on April 6, 2004, Elk County supports the request for an extension.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d) (Trail Act).² See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987). Accordingly, the NITU negotiating period will be extended for an additional 90 days from April 28, 2004 (until July 27, 2004).

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 NITU negotiating period is granted for a period of 90 days (until July 27, 2004).
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

² Trail use/rail banking is voluntary and can be implemented only if an abandoning railroad agrees to negotiate an agreement. See section 8(d) of the Trails Act. Therefore, the negotiating period may be extended only for the agreed term of 90 days.