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SERVICE DATE – JULY 12, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 192X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—  
IN ANDERSON AND WOODFORD COUNTIES, KY

Decided: July 10, 2006

By decision and notice of interim trail use or abandonment (NITU) served on May 28, 2004, a period extending until July 2, 2004 was authorized for the Tyrone Bridge and Rail Company (TBRC) to negotiate an interim trail use/rail banking agreement with the Norfolk Southern Railway Company (NS) for a line of railroad between milepost 0.7-LL, at Lawrenceburg, and milepost 3.5-LL, at Tyrone, in Anderson and Woodford Counties, KY, a distance of approximately 2.8 miles. The negotiation period was extended several times; the latest extension was scheduled to expire on June 22, 2006.

On June 27, 2006, the Board received TBRC's motion to extend the NITU negotiation period for an additional 180 days. NS's reply to TBRC's anticipated request for an extension of the NITU negotiation period was received on June 20, 2006. NS indicates that it has not consummated the abandonment and that it consents to the request to extend the trail use negotiation period.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and has indicated its willingness to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the 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). An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended through December 19, 2006.<sup>1</sup>

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

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<sup>1</sup> See *Rail Abandonments—Supplemental Trails Act Procedures*, 4 I.C.C.2d 152, 157-58 (1987).

It is ordered:

1. This proceeding is reopened.
2. TBRC's request to extend the NITU negotiating period is granted.
3. The NITU negotiating period is extended through December 19, 2006.
4. This decision is effective on the date of service.

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

Vernon A. Williams  
Secretary