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SERVICE DATE - JULY 26, 2001

SURFACE TRANSPORTATION BOARD

DECISION AND CERTIFICATE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB-167 (Sub-No. 1148)

CONSOLIDATED RAIL CORPORATION—ABANDONMENT—BETWEEN
WALKERS MILL AND BURGETTSTOWN, IN ALLEGHENY
AND WASHINGTON COUNTIES, PA

Decided: July 23, 2001

By a decision and certificate of interim trail use or abandonment (CITU) served on July 14, 1995, the National Pike Trail Council (NPTC) and Allegheny County, PA (Allegheny County), were authorized to negotiate an interim trail use/rail banking agreement with Consolidated Rail Corporation (Conrail)¹ for the 15.7-mile right-of-way between milepost 11.00 at Walkers Mill and milepost 26.7 at Burgettstown, in Allegheny and Washington Counties, PA.

In a joint motion filed on July 12, 2001, NPTC, Washington County, PA (Washington County), and Allegheny County request the substitution of Washington County as interim trail user for that portion of the right-of-way between milepost 17.85 (at the boundary between Washington County, PA, and Allegheny County, PA) and milepost 26.7 and the substitution of Allegheny County as interim trail user for the remaining portion of the right-of-way between milepost 11.00 and milepost 17.85. NPTC states that it intends to terminate its trail use along the corridor. Washington County submitted a statement of willingness to assume financial responsibility for the part of the line in Washington County, PA, and Allegheny County submitted a statement of willingness to assume financial responsibility for the part of the line in Allegheny County, PA.

¹ By a decision served on July 23, 1998, the Board approved, subject to certain conditions, the acquisition of control of Conrail, and the division of the assets thereof, by CSX Corporation and CSX Transportation, Inc. (referred to collectively as CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (referred to collectively as NS). See CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation, STB Finance Docket No. 33388, Decision No. 89 (STB served July 23, 1998). Acquisition of control of Conrail was effected by CSX and NS on August 22, 1998. The division of the assets of Conrail was effected by CSX and NS on June 1, 1999. See CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation, STB Finance Docket No. 33388, Decision No. 127 (STB served May 20, 1999).

The parties have submitted a copy of the extant CITU and separate statements of willingness to assume financial responsibility by the new trail users. They have also indicated the date of transfer of responsibility for the right-of-way. The parties' submission meets the requirements of 49 CFR 1152.29(f). Accordingly, the requested relief will be granted.

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

It is ordered:

1. This proceeding is reopened.
2. The CITU served on July 14, 1995, is vacated.
3. A replacement CITU applicable to Washington County as interim trail user for that portion of the right-of-way between milepost 17.85 and milepost 26.7, and to Allegheny County as interim trail user for the remaining portion of the right-of-way between milepost 11.00 and milepost 17.85 is issued, effective on the service date of this decision.
4. The new trail users are required to assume, for the term of the agreements, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless a user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way.
5. Interim trail use/rail banking is subject to the future restoration of rail service and to the new users continuing to meet the financial obligations for the right-of-way.
6. If either of the new trail users intends to terminate trail use, it must send the Board a copy of this CITU and request that it be vacated on a specified date.
7. This decision is effective on its service date.

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

Vernon A. Williams
Secretary