

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-850X

ST. CROIX VALLEY RAILROAD COMPANY—ABANDONMENT AND
DISCONTINUANCE OF SERVICE EXEMPTION—IN PINE AND KANABEC
COUNTIES, MN

Decided: February 13, 2009

By decision served on July 7, 2003 (July 2003 decision), the Board granted St. Croix Valley Railroad Company (SCXY) an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to: (1) abandon its rail easement over a line of The Burlington Northern and Santa Fe Railway Company (BNSF) between milepost 58.3 at Mora Junction (Brook Park) and milepost 47.6 at Mora, a distance of 10.7 miles,¹ and (2) discontinue rail service pursuant to overhead trackage rights over a rail line of BNSF between Hinckley and Mora Junction (Brook Park), a distance of 8.2 miles, in Pine and Kanabec Counties, MN, subject to environmental and standard employee protective conditions.

By decision and notice of interim trail use or abandonment (NITU) served on July 11, 2008, the proceeding was reopened and the July 2003 decision was modified to implement interim trail use/rail banking, under the National Trails System Act (Trails Act), 16 U.S.C. 1247(d), and 49 CFR 1152.29, thereby providing a 180-day period, until January 7, 2009, for the Kanabec County Regional Rail Authority (Rail Authority) to negotiate with SCXY regarding the portion of the line between milepost 55.8 and milepost 47.0 in Kanabec County.²

On January 12, 2009, the Rail Authority filed a request for an extension of the negotiating period for 180 days for the segment between mileposts 55.8 and 47.0. The Rail Authority states that, because of extenuating circumstances beyond the parties' control, the

¹ At the request of SCXY, in a decision served on March 30, 2007, milepost 47.6 was corrected to milepost 47.0 to indicate the actual milepost that corresponds to Mora. The length of the line is thus approximately 11.3 miles.

² By NITU served on August 6, 2003 (August 2003 decision), the proceeding was reopened and the July 2003 decision was modified to implement interim trail use/rail banking, under the Trails Act, for the 2.5-mile segment of the right-of-way in Pine County, between milepost 58.3 at Mora Junction (Brook Park) and the Pine County/Kanabec County Line. The August 2003 decision also included a now-expired public use condition for that segment, under 49 U.S.C. 10905 and 49 CFR 1152.28. The Rail Authority's request does not concern that 2.5-mile segment.

parties were unable to consummate the rail banking agreement at an earlier date. The Rail Authority indicates that it is authorized to state that SCXY consents to this request.

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 retains jurisdiction, and the NITU negotiating period may be extended.³ 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). Accordingly, the NITU negotiating period will be extended until July 6, 2009.

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

It is ordered:

1. The Rail Authority's request to extend the NITU negotiating period for the segment of the line between milepost 55.8 and milepost 47.0 is granted.
2. The negotiating period under the NITU is extended until July 6, 2009, for the segment of the line between milepost 55.8 and milepost 47.0.
3. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary

³ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).