

SERVICE DATE - JANUARY 8, 1997

SURFACE TRANSPORTATION BOARD<sup>1</sup>

DECISION

Docket No. AB-167 (Sub-No. 1132X)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT EXEMPTION--  
BETWEEN BURGETTSTOWN, WASHINGTON COUNTY, PA,  
AND COLLIERS, BROOKE COUNTY, WV

Decided: January 2, 1997

On March 7, 1994, a decision and notice of interim trail use or abandonment (NITU) was served, which established a 180-day period for National Pike Trail Council (NPTC) to negotiate an interim trail use/rail banking agreement with Consolidated Rail Corporation (Conrail) for its 9-mile line from milepost 26.7± near Burgettstown, PA, to milepost 35.7± near Colliers, WV. At the request of NPTC, and with Conrail's consent, the negotiation period was subsequently extended by decisions served August 3, 1994, February 10, 1995, July 21, 1995, December 28, 1995, and August 20, 1996. The negotiation period under the latest extension will expire on January 14, 1997.

On December 23, 1996, NPTC, with Conrail's agreement, filed a request to extend the negotiation period for an additional 180 days. NPTC states that the parties need the additional time to continue negotiations, including expected participation of the West Virginia Rail Authority and others, to further assemble and review title information, and to evaluate structures on the corridor.

A further extension of the NITU negotiating period is warranted. Where, as here, the carrier has not abandoned the line and is willing to continue trail use negotiations, the Board retains jurisdiction to extend the negotiating period.<sup>2</sup> The requested extension will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). 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

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<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the ICCTA provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the ICCTA. This decision relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this decision applies the law in effect prior to the ICCTA.

<sup>2</sup> See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987) and Missouri Pac. R. Co.--Aband. in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990).

recreational trails. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990).

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

It is ordered:

1. NPTC's request to extend the negotiation period under the NITU for an additional 180 days is granted.

2. The negotiation period under the NITU is extended to July 14, 1997.

3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary