

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 369 (Sub-No. 7X)

BUFFALO & PITTSBURGH RAILROAD, INC.—ABANDONMENT EXEMPTION—IN
ERIE AND CATTARAUGUS COUNTIES, N.Y.

Decided: April 14, 2011

Buffalo & Pittsburgh Railroad, Inc. (BPRR) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 27.6-mile line of railroad extending from milepost 8.4 in Orchard Park, in Erie County, N.Y., to milepost 36 in Ashford, in Cattaraugus County, N.Y. Notice of the exemption was served and published in the Federal Register on October 6, 2008 (73 Fed. Reg. 58,297). In this decision, the Board is granting the request by the New York State Office of Parks, Recreation and Historic Preservation (NYS Office of Parks) to extend the interim trail use negotiation period.

By decision and notice of interim trail use or abandonment (NITU) served on November 4, 2008, the proceeding was reopened and a 180-day period was authorized for NYS Office of Parks to negotiate an interim trail use/rail banking agreement with BPRR for the right-of-way involved in this proceeding pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act). By a series of decisions, the most recent served on November 1, 2010, the trail use negotiation period under the NITU was extended until April 24, 2011.

By letter filed on April 7, 2011, NYS Office of Parks has requested an extension of the NITU negotiating period. In support, NYS Office of Parks states that the parties do not anticipate being able to consummate an agreement prior to the expiration date of the trail use negotiation period, but wish to continue negotiations. By letter filed on April 8, 2011, BPRR advises that it agrees to the extension request.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.¹ An extension of the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the Trails Act. Accordingly, the NITU negotiating period will be extended for 180 days from April 24, 2011, to October 21, 2011.

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

¹ See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

It is ordered:

1. The NYS Office of Parks' request to extend the negotiation period is granted.
2. The negotiating period under the NITU is extended from April 24, 2011, to October 21, 2011.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.