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SERVICE DATE – SEPTEMBER 13, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-103 (Sub-No. 19X)

THE KANSAS CITY SOUTHERN RAILWAY COMPANY—ABANDONMENT  
EXEMPTION—IN WEBSTER PARISH, LA

Decided: September 12, 2006

The Kansas City Southern Railway Company (KCSR) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon approximately 1.12 miles of railroad between milepost 48.48 and milepost 49.60 in Springhill, Webster Parish, LA. Notice of the exemption was served and published in the Federal Register on August 11, 2005 (70 FR 46920-21). The exemption was scheduled to become effective on September 10, 2005.

By decision and notice of interim trail use or abandonment (NITU) served on September 9, 2005, the proceeding was reopened, and the notice was modified to the extent necessary to implement interim trail use/rail banking. A 180-day period was authorized to permit the City of Springhill, LA (the City), to negotiate an interim trail use/rail banking agreement with KCSR for the described line. By decision served on March 15, 2006, the negotiating period under the NITU was extended for 180 days, until September 5, 2006.

On September 5, 2006, KCSR filed a request to extend the NITU negotiating period for an additional 180 days (until March 4, 2007). KCSR states that the parties are close to an agreement, but that additional time is needed to complete the agreement. KCSR adds that it has not consummated the abandonment and continues to work toward a trail use agreement with the City. Finally, KCSR states that it is authorized to represent that the City concurs in the request.

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 negotiations by requesting an extension, 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). Accordingly, the NITU negotiating period will be extended to March 4, 2007.

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

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to March 4, 2007.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary