

SURFACE TRANSPORTATION BOARD<sup>1</sup>

DECISION

Docket No. AB-398 (Sub-No. 3X)

SAN JOAQUIN VALLEY RAILROAD COMPANY—ABANDONMENT  
EXEMPTION—IN FRESNO COUNTY, CA

Decided: June 6, 1997

On October 23, 1995, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the city of Clovis, CA (Clovis), to negotiate an interim trail use/rail banking agreement under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), with San Joaquin Valley Railroad Company (SJVR) for substantially the entire 4.5-mile line segment of the Clovis Branch between milepost 214.5 at Tarpey and milepost 219.0 at Glorietta Station, in Fresno County, CA.<sup>2</sup> The 180-day period expired on November 24, 1995, but was extended through May 18, 1997, by decisions served December 12, 1995, June 7, 1996, and February 6, 1997.

By letter filed May 15, 1997, Clovis seeks to extend the NITU negotiating period for an additional 180 days. Clovis states that it is working with both the city of Fresno and Fresno County to jointly negotiate for trail use/rail banking of the entire rail corridor slated for abandonment in the Fresno-Clovis Metropolitan Area.<sup>3</sup> Although funding sources have been located, Clovis submits that additional time is needed to successfully conclude the complex negotiations because three separate jurisdictions are involved. SJVR and SP consent to the extension request.

Where, as here, the carrier is willing to continue trail use negotiations, the Board's jurisdiction is not terminated and the negotiating period may be extended.<sup>4</sup> Under the circumstances,

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<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (the 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> Clovis' request covered the entire right-of-way, except the segment between Fifth Street, at or near milepost 217.3, and Third Street, at or near milepost 217.5. Then, in a letter dated May 28, 1996, Southern Pacific Transportation Company (SP), the owner of the right-of-way, expanded the excluded segment to encompass the mileage between milepost 217.2 and milepost 217.7.

<sup>3</sup> As noted in the decision served February 6, 1997, Clovis advised that it had agreed to extend its trail use request to cover other lines owned by SP that are not included within the scope of this NITU request.

<sup>4</sup> See *Missouri Pacific Railroad Company—Abandonment in OK*, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and *St. Louis Southwestern Railway Company—Abandonment in Smith and Cherokee Counties, TX*, Docket No. AB-39 (Sub-No. 12) (ICC served Mar. 27, 1997).  
(continued...)

a further extension of the NITU negotiation period is warranted and will promote the establishment of trails and rail banking consistent with the Trails Act.

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

*It is ordered:*

1. The NITU negotiating period is extended for 180 days to November 14, 1997.
2. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary

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