

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-988 (Sub-No. 1X)

NEBKOTA RAILWAY, INC.—ABANDONMENT EXEMPTION—IN DAWES AND
SHERIDAN COUNTIES, NE

Decided: April 16, 2008

On October 1, 2007, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the Nebraska Game and Parks Commission (NGPC) to negotiate an interim trail use/rail banking agreement with Nebkota Railway, Inc. (NRI), for a 30.3-mile segment of its line of railroad between milepost 404.3 near Chadron 69337 and the end of the line at milepost 374 at Rushville 69360, in Dawes and Sheridan Counties, NE. The negotiating period expired on March 29, 2008.

On March 25, 2008, NGPC filed a request to extend the NITU negotiating period for an additional 60 days. NGPC states that additional time is needed for NRI to complete appraisals and other administrative tasks before supplying an appropriate deed for this segment of line. In a letter dated April 11, 2008, NRI agrees to NGPC's extension 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. Under the circumstances, an 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). An extension of the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d).¹ Accordingly, the NITU negotiating period will be extended for an additional 60 days from March 29, 2008, to May 28, 2008.

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 of NGPC to extend the NITU negotiating period is granted.

¹ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

2. The negotiating period under the NITU is extended for 60 days, until May 28, 2008.
3. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary