

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-994X

KETTLE FALLS INTERNATIONAL RAILWAY, LLC–
ABANDONMENT EXEMPTION–IN FERRY COUNTY, WA

Decided: November 5, 2007

By decision and notice of interim trail use or abandonment (NITU) served on October 11, 2006, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by Kettle Falls International Railway, LLC (KFR), of 28.361 miles of railroad extending from milepost 48.779, near Danville, to milepost 77.14, at San Poil, a distance of 28.361 miles, in Ferry County, WA, subject to trail use, public use, environmental, and standard employee protective conditions. The decision authorized the Ferry County Board of Commissioners (County) 180 days to negotiate with KFR for public use or interim trail use/rail banking for the line.¹ By decision served on May 9, 2007, the negotiating period was extended through November 5, 2007.

On October 24, 2007, the County filed a request to extend the trail use negotiating period from November 5, 2007, to May 4, 2008.² The County states that the parties have already exchanged a draft contract and that the County is awaiting a revision from KFR. The County also states that delays have occurred while KFR attempts to coordinate with BNSF Railway Company (BNSF) about certain interests BNSF may have retained in the property. KFR, in a letter filed October 31, 2007, consents to the request for an extension.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the negotiating period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d).³ Accordingly, the NITU negotiating period will be extended until May 4, 2008.

¹ The public use condition expired on May 9, 2007, and cannot be extended.

² Although the request exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., Southern Pacific Transportation Company–Abandonment Exemption–Wendel-Alturas Line in Modoc and Lassen Counties, CA, Docket No. AB-12 (Sub-No. 184X (STB served Sept. 1, 2005)).

³ See Rail Abandonments–Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

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

It is ordered:

1. The County's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended until May 4, 2008.
3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary