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SERVICE DATE – AUGUST 3, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-254 (Sub-No. 7X)

PROVIDENCE AND WORCESTER RAILROAD COMPANY—ABANDONMENT  
EXEMPTION—IN WORCESTER COUNTY, MA, AND WINDHAM COUNTY, CT

Decided: August 2, 2005

Providence and Worcester Railroad Company (P&W) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a portion of its line of railroad known as the Southbridge Running Track, extending from milepost 0.18, in Webster, MA, to milepost 10.98, in Southbridge, MA, a distance of approximately 10.8 miles, in Worcester County, MA, and Windham County, CT. Notice of the exemption was served and published in the Federal Register on November 4, 2003 (68 FR 62497-98).

By decision and notice of interim trail use or abandonment (NITU) served January 27, 2005, the proceeding was reopened and the State of Connecticut Department of Environmental Protection (CTEP) was granted a 180-day period to negotiate an interim trail use/rail banking agreement with P&W for the 3.4-mile portion of the rail line from milepost 1.39, in Thompson, to milepost 4.8, in Quinebaug, CT, under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act).<sup>1</sup> The negotiating period under the NITU expired on July 26, 2005.

On July 26, 2005, CTEP filed a request to extend the NITU negotiating period to October 26, 2005. CTEP requests the additional time to continue negotiations. In a response filed on July 27, 2005, P&W states that it concurs in the extension request.

Where, as here, the carrier has not consummated abandonment of the line 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.

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<sup>1</sup> The Commonwealth of Massachusetts, by and through its Executive Office of Transportation and Construction, negotiated an interim trail use/rail banking agreement with P&W for the portion of the right-of-way between milepost 0.18, in Webster, and milepost 1.4 +/-, in Dudley, and between milepost 4.8 +/-, in Dudley, and milepost 10.98, in Southbridge, MA. By letter filed on September 13, 2004, P&W gave notification that a trail use/rail banking agreement had been consummated with regard to the portion of the line located in Massachusetts.

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), cert. denied, 519 U.S. 1149 (1997). An extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the Trails Act.<sup>2</sup> Accordingly, the NITU negotiating period will be extended to October 26, 2005.

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 October 26, 2005.
3. 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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<sup>2</sup> See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).