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SERVICE DATE – LATE RELEASE MAY 16, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 308 (Sub-No. 4X)

CENTRAL MICHIGAN RAILWAY COMPANY–ABANDONMENT EXEMPTION–IN  
KENT COUNTY, MICH.

Decided: May 16, 2011

Central Michigan Railway Company (CMRY) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F–Exempt Abandonments to abandon an approximately 1.75-mile line of railroad, consisting of the following three interconnected segments: (1) a line (segment A) extending from milepost 157.96 (at the switch connection with the east-west aligned tracks of the Mid-Michigan Railroad, Inc. (MMR) near the intersection of Taylor Avenue and Quimby Street) through valuation map marker 9+87.2 (the location of the south wye, or Press Track, switch adjacent to Monroe Avenue) and continuing to the end of the track at a point immediately north of Michigan Street/Bridge Street; (2) a line (segment B) extending from valuation map marker 3+00 (at a switch connection with a line of MMR immediately at the east end of the MMR bridge spanning the Grand River) to a connection with segment A at valuation map marker 9+87.2 (at the south wye switch); and (3) a line (segment C) extending from valuation map marker 0+00 (at a point of connection with the east-west aligned MMR line immediately to the east of the MMR line’s bridge spanning the Grand River) due northward to valuation map marker 11+15.0 (approximately 250 feet south of Ann Street), in Grand Rapids, Kent County, Mich. Notice of the exemption was served and published in the Federal Register on April 1, 2009 (74 Fed. Reg. 14,862-63).

By decision and notice of interim trail use or abandonment (NITU) served on April 30, 2009, the proceeding was reopened and a 180-day period was authorized for the Michigan Department of Natural Resources (MDNR) to negotiate an interim trail use/rail banking agreement with CMRY for the right-of-way involved in this proceeding pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d). By decisions served on November 3, 2009, May 10, 2010, and November 24, 2010, the NITU negotiating period was extended until April 20, 2011.

On April 20, 2011, MDNR filed a request for a 180-day extension of the NITU negotiating period. MDNR states that CMRY and MDNR are continuing negotiations toward an agreement and expect to complete an agreement within 180 days. CMRY filed a letter consenting to MDNR’s request to extend the NITU negotiating period.

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.<sup>1</sup> 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 Vill. v. Mo. Pac. R.R., 95 F.3d 654, 659 (8th Cir. 1996). Accordingly, the NITU negotiating period will be extended 180 days, until October 17, 2011.

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

It is ordered:

1. MDNR's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended until October 17, 2011.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

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<sup>1</sup> See Rail Aban.–Use of Rights-of-Way as Trails–Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).