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SERVICE DATE – APRIL 19, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-868X¹

MISSISSIPPI TENNESSEE HOLDINGS, LLC—ABANDONMENT EXEMPTION—
IN UNION, PONTOTOC AND CHICKASAW COUNTIES, MS

Decided: April 17, 2007

By decision and notice of interim trail use or abandonment (NITU) served on July 26, 2004, the Board granted a petition for exemption under 49 U.S.C. 10502 permitting Mississippi Tennessee Holdings, LLC (MTH) to abandon, and Mississippi Tennessee Railroad, LLC (MTR) to discontinue service over, a 43.2-mile line of railroad in Union, Pontotoc and Chickasaw Counties, MS, extending from milepost 324.2 near New Albany to the end of the line at milepost 281.0 near Houston, MS. A NITU served on July 6, 2006, established a 90-day period (until October 4, 2006) for the City of New Albany, MS (City), to negotiate an interim trail use/rail banking agreement with MTH for the entire 43.2-mile rail line. A decision served on October 4, 2006, extended the trail use negotiating period until April 3, 2007.

By letter filed on April 3, 2007, the City requests a 120-day extension of the NITU negotiating period (until August 1, 2007), stating that it has been working diligently on the matter and that its efforts may succeed in the near future due to assistance from the Mississippi Department of Transportation. In a response filed on April 9, 2007, MTH agrees to extending the rail banking and trail use negotiating period to August 1, 2007.

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.² Under the circumstances, an extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d

¹ Some of the prior decisions in this proceeding have also embraced Mississippi Tennessee Railroad, LLC—Discontinuance of Service Exemption—in Union, Pontotoc and Chickasaw Counties, MS, STB Docket No. AB-869X.

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

580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996). Accordingly, the NITU negotiating period will be extended until August 1, 2007.

This decision 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 NITU negotiating period is extended to August 1, 2007.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary