

Before the
SURFACE TRANSPORTATION BOARD

Docket No. AB-1004X

239355

ENTERED
Office of Proceedings
October 13, 2015
Part of
Public Record

**SHANNON TRANSPORT, INC.
- ABANDONMENT EXEMPTION -
IN CLARION COUNTY, PA**

**REQUEST TO REOPEN TO
PERMIT CONSUMMATION OF ABANDONMENT**

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Dated: October 13, 2015

Attorneys for C&K Coal Company,
successor by merger to Shannon Transport,
Inc.

Before the
SURFACE TRANSPORTATION BOARD

Docket No. AB-1004X

**SHANNON TRANSPORT, INC.
- ABANDONMENT EXEMPTION -
IN CLARION COUNTY, PA**

**REQUEST TO REOPEN TO
PERMIT CONSUMMATION OF ABANDONMENT**

C&K Coal Company, successor by merger to Shannon Transport, Inc. (“ST”) hereby requests that the Board reopen the notice of interim trail use (“NITU”) issued in this proceeding, issue a replacement NITU for the portion of the rail line covered by the interim trail use agreement entered into between ST and Allegheny Valley Land Trust (“AVLT”), and issue a decision permitting immediate abandonment of the portion of the right of way that was not acquired by AVLT. *See* 49 CFR 1152.29(h). In support of its request, ST states as follows:

Background

In June 2007, ST filed a notice of exemption in this proceeding to abandon the 12.5-mile line of railroad that it owned between milepost 6.0 and milepost 4.0 in or near Lawsonham, and the connecting line between milepost 0.0 near Lawsonham and milepost 10.5 near Sligo, in Clarion County, PA (the “Line.”). The Line was operated by Buffalo & Pittsburgh Railroad, Inc. (“BPRR”). BPRR filed a companion notice to discontinue its operations over the Line. *See Buffalo & Pittsburgh Railroad, Inc. – Discontinuance Exemption In Clarion and Jefferson Counties, PA*, STB Docket No. AB-369 (Sub-No. 6X).

The Board issued a notice on June 28, 2007, indicating that the exemption would be effective July 28, 2007. *See* June 2007 decision attached hereto as Exhibit A.¹ By decision served July 27, 2007, the proceeding was reopened and the Board imposed an initial 180-day period public use and trail use period. Under the notice of interim trail use (NITU), AVLT was authorized to negotiate an interim trail use/rail banking agreement with ST. *See* July 2007 decision attached hereto as Exhibit B. The NITU issued by the Board covered the entire Line. The negotiating period under the NITU was extended by several decisions, the last being in a decision served January 29, 2010, which extended the NITU until July 12, 2010. *See* January 2010 decision attached hereto as Exhibit C.

By letter dated July 2, 2010 (a copy of which is attached hereto as Exhibit D), AVLT notified the Board that an agreement had been reached with ST to acquire the portion of the Line between milepost 6.0 and milepost 4.0 in or near Lawsonham, and the connecting line between milepost 0.0 near Lawsonham and milepost 9.0 near Sligo (emphasis added), and that closing had occurred. The AVLT letter did not specifically note that the acquisition was of only a portion of the Line subject to the NITU (AVLT did not acquire the portion of the Line between milepost 9.0 and the end of the Line at milepost 10.5 (the “Remainder”)), nor did it specifically ask the Board to vacate the NITU, issue a replacement NITU for the portion of the Line that was acquired for interim trail use, and issue a decision permitting immediate abandonment of the Remainder that was not acquired by AVLT. *See* 49 CFR 1152.29(h).

In connection with the abandonment, and discontinuance by BPRR, the Line was salvaged. AVLT is developing a trail over the portion of the Line that it purchased.

¹ All of the Exhibits attached hereto are part of the public record in this proceeding. However, because some of the records do not appear on the Board’s website, copies are being provided for the Board’s convenience and reference.

Recently, in connection with some title work on the property bisected by the Remainder, ST realized that abandonment had never been finalized and that the remaining railroad authority was clouding the title of the underlying and adjacent parcels.

Because of the sale of a portion of the Line to AVL T, and the discontinuance of rail service by the rail operator, the Remainder is no longer connected to the rail network. It is no longer possible to provide rail service from or to the Remainder. The Remainder has not been used for rail service for at least 2 years before the abandonment was filed. Additionally, since the only customer on the Remainder has since ceased doing any business, ST can say that there is no future intent of any party to use rail service to or from the Remainder.

Discussion

The issuance of a NITU, such as the one issued to AVL T in this proceeding, creates a legal impediment to the consummation of an abandonment while the NITU is outstanding. In the usual case, if a trail group acquires less than all of the rail lines covered by a NITU, it is supposed to file a notice informing the Board so that the Board can vacate the NITU, issue a replacement NITU for the portion of the lines being acquired, and issue an order removing the legal impediment to abandonment and allowing immediate abandonment of the portion of the lines not being acquired. 49 CFR 1152.29(h). *See also* 49 CFR 1152.29(d)(2) (providing for similar action by the Board in the event of full or partial termination of interim trail use).

In this proceeding, the AVL T notice did not specify that milepost description of what it was acquiring was only a portion of the Line, and did not specifically ask the Board to vacate the NITU, issue a new NITU for what was acquired, or issue an order allowing immediate abandonment of the Remainder. Accordingly, the Board never issued such an order, and ST never consummated the abandonment of the Remainder. Accordingly, ST is now asking the

Board to take the actions under Section 1152.29(h) that should have occurred when AVL T filed its notice. No other parties will be adversely affected, and such action will allow ST to consummate the abandonment.

To the extent necessary, ST requests that the Board grant an extension of time under 49 C.F.R. 1152.29(e)(2) to file its notice of consummation. ST reasonably believed that there was a legal impediment to filing a notice of exemption since the Board never issued an order removing the Remainder from the NITU and allowing for its immediate abandonment. Further, no other parties will be affected by extending the time for consummation, and extending the time would reduce the need for another abandonment filing where there are no customers and no tracks remaining, and where the Remainder is no longer connected to the interstate rail network. Section 1152.29(e)(2) allows for extensions to file its notice of exemption "good cause." While the regulations contemplate extension requests being filed before the time for filing a notice of consummation expires, the Board has accepted late-file extension requests in appropriate circumstances such as those the case here. *See South Carolina Central Railroad Company – Abandonment Exemption – In Chesterfield and Darlington Counties, S.C.*, Docket No. AB 312 (Sub-No. 3x) (served April 3, 2013) (unusual circumstances relating to acquisition of railroad at deadline for consummation); *Norfolk Southern Railway Company – Abandonment Exemption – In Marietta. Lancaster County, PA*, Docket No. AB 290 (Sub-No. 328X) (served April 3, 2013) (factors including misunderstanding of Board order); *Western Kentucky Railway, LLC – Abandonment Exemption – In Webster, Union, Caldwell and Crittendon Counties, KY*, Docket No. AB 449 (Sub-No. 3X) (served August 3, 2012) (no adverse effect on any other party).

Conclusion

For all of the foregoing reasons, ST requests that the Board vacate the NITU, issue a replacement NITU for the portion of the Line that was acquired by AVLT for interim trail use, and issue a decision permitting immediate abandonment of the Remainder that was not acquired by AVLT.

Respectfully submitted,



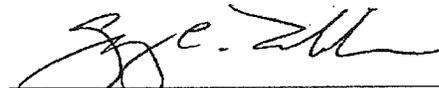
Eric M. Hocky
CLARK HILL PLC
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103
215-640-8500
ehocky@clarkhill.com

Dated: October 13, 2015

Attorneys for C&K Coal Company,
successor by merger to Shannon Transport,
Inc.

VERIFICATION

I, Gary C. Wilson, verify under penalty of perjury that I am authorized to make this verification on behalf of C&K Coal Company, successor by merger to Shannon Transport, Inc., and that the information included in the foregoing Request to Reopen is true and correct to the best of my knowledge and belief.



Gary C. Wilson
President

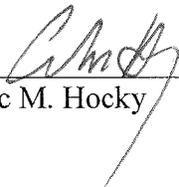
Dated: October 13, 2015

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I caused a copy of the foregoing Request to Reopen to be served by email and U.S. mail, postage prepaid on the following:

Ronald L. Steffey
Allegheny Valley Land Trust
PO Box 777
Kittanning, PA 16201
armtrail@windstream.net

Dated: October 13, 2015



Eric M. Hocky

EXHIBIT A



14 of 49 DOCUMENTS

Shannon Transport, Inc.--Abandonment Exemption--in Clarion County, PA; Buffalo & Pittsburgh Railroad, Inc.--Discontinuance Exemption--in Clarion and Jefferson Counties, PA

[STB Docket No. AB-1004X], [STB Docket No. AB-369 (Sub-No. 6X)] n1

n1 For administrative purposes, the discontinuance exemption sought in STB Docket No. AB-369 (Sub-No. 6X) is being divided to correspond to the two abandonment exemptions sought here and in STB Docket No. AB-976 (Sub-No. 2X).

SURFACE TRANSPORTATION BOARD

2007 STB LEXIS 353

SERVICE DATE: June 28, 2007

June 18, 2007

PANEL:

[*1]

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

OPINIONBY: By the Board

OPINION:

Shannon Transport, Inc. (STI), has filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances of Service to abandon, and Buffalo & Pittsburgh Railroad, Inc. (BPRR), has filed a notice of exemption under the same Subpart to discontinue service and operating rights over, approximately 12.5 miles of rail line, n2 extending between milepost 6.0 and milepost 4.0 in or near Lawsonham, and the connecting line between milepost 0.0 near Lawsonham and milepost 10.5 near Sligo, in Clarion County, PA. n3 The line traverses United States Postal Service Zip Codes 16248 and 16255.

n2 Both notices were initially filed on May 29, 2007. At the Board's request, both notices were supplemented by the applicants on June 8, 2007, with letters providing certain required certifications. Because the notices were not complete until the June 8 filings, that date will be considered the actual filing date for both notices and the basis for all due dates.

n3 In its notice of exemption filed in STB Docket No. AB-369 (Sub-No. 6X), BPRR seeks discontinuance over 48.45 miles of rail line, encompassing the 12.5 miles of rail line at issue here and the remaining 35.95 miles of rail line corresponding to the notice of exemption filed by Pittsburg & Shawmut Railroad, LLC (Pittsburg & Shawmut), in Pittsburg & Shawmut Railroad, LLC--Abandonment Exemption--in Clarion and Jefferson Counties, PA, STB Docket No. AB-976 (Sub-No. 2X), et al.

[*2]

STI and BPRR have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is

pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

Where, as here, STI is abandoning all of the rail lines it owns, the Board does not normally impose labor protection under 49 U.S.C. 10502(g), unless the evidence indicates the existence of: (1) a corporate affiliate that will continue substantially similar rail operations; or (2) a corporate parent that will realize substantial financial benefits over and above relief from the burden of deficit operations [*3] by its subsidiary railroad. See *Wellsville, Addison & Galetton R. Corp.--Abandonment*, 354 I.C.C. 744 (1978); and *Northampton and Bath R. Co.--Abandonment*, 354 I.C.C. 784 (1978). Because STI does not appear to have a corporate affiliate or parent that will continue similar operations or that could benefit from the proposed abandonment, employee protection conditions will not be imposed.

As a condition to BPRR's discontinuance exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line R. Co.--Abandonment--Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on July 28, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues, n4 formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), [*4] n5 and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 9, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 18, 2007, with: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

n4 The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

n5 Each OFA must be accompanied by the filing fee, which is currently set at \$ 1,300. See 49 CFR 1002.2(f)(25).

A copy of any petition filed with the Board should be sent to STI's and BPRR's representative: Eric M. Hocky, Esquire, Gollatz, Griffin & Ewing, P.C., Four Penn Center, Suite 200, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103.

If the verified notice contains false or misleading information, [*5] the exemption is void ab initio.

STI and BPRR, along with Pittsburg & Shawmut, have filed a joint combined environmental and historic report, which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources for this line and the line addressed in Pittsburg & Shawmut Railroad, LLC--Abandonment Exemption--in Clarion and Jefferson Counties, PA, STB Docket No. AB-976 (Sub-No. 2X), et al. Additionally, STI has filed a supplemental environmental and historic report, which specifically addresses the effects, if any, of the abandonment on this line. SEA will issue an environmental assessment (EA) by July 3, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will [*6] be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), STI shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by STI's filing of a notice of consummation by June 28, 2008, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

EXHIBIT B



11 of 49 DOCUMENTS

SHANNON TRANSPORT, INC.--ABANDONMENT EXEMPTION--IN CLARION COUNTY, PA

STB Docket No. AB-1004X n1

n1 The notice served and published on June 28, 2007, embraced STB Docket No. AB-369 (Sub-No. 6X), Buffalo & Pittsburgh Railroad, Inc.--Discontinuance Exemption--in Clarion and Jefferson Counties, PA.

SURFACE TRANSPORTATION BOARD

2007 STB LEXIS 422

SERVICE DATE: July 27, 2007

July 26, 2007

PANEL:

[*1]

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

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

OPINIONBY: By the Board

OPINION:

Shannon Transport, Inc. (STI), filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon approximately 12.5 miles of rail line, extending between milepost 6.0 and milepost 4.0 in or near Lawsonham, and the connecting line between milepost 0.0 near Lawsonham and milepost 10.5 near Sligo, in Clarion County, PA. On June 11, 2007, Allegheny Valley Land Trust (Allegheny Valley) filed a request for the issuance of a notice of interim trail use (NITU) and a public use condition. On June 28, 2007, notice of the exemption was served and published in the Federal Register (72 FR 35546-47). The exemption is scheduled to become effective on July 28, 2007.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on July 3, 2007. In the EA, SEA recommends two conditions. First, SEA notes that the Pennsylvania Fish and Boat Commission, Division of Environmental Services (FBC), has advised it that the removal and salvage of the rail lines should be [*2] done in such a manner as to avoid run-off, soil erosion, and sedimentation, and should be done in conformance with an approved Erosion and Sedimentation Control Plan. Therefore, SEA recommends that STI be required to consult with FBC prior to commencement of any salvage activities to avoid and minimize impacts to FBC's Summerville property.

Second, SEA states that the National Geodetic Survey (NGS) has advised it that a number of geodetic station markers have been identified that may be affected by the proposed abandonment. n2 Therefore, SEA recommends a condition requiring that STI contact NGS at least 90 days prior to beginning salvage activities so that NGS may plan for the possible relocation of geodetic station markers.

n2 NGS advised SEA that there were approximately a combined 51 geodetic station markers on the lines here and the contiguous line at issue in STB Docket No. AB-976 (Sub-No. 2X), Pittsburg & Shawmut Railroad, LLC--Abandonment Exemption--in Clarion and Jefferson Counties, PA et al.

Comments to the EA were due by July 18, 2007. On that date, a comment was received from STI, addressing the two conditions set forth in the EA. STI indicates that FBC's Summerville [*3] property is not adjacent to the lines owned by STI. Accordingly, SEA no longer recommends that STI be required to consult with FBC concerning this property. Further, STI states that it has confirmed through discussions with NGS that it is unlikely that any geodetic station markers will be disturbed by STI's salvage activities because of where NGS places them. STI states that it has confirmed with NGS that it can proceed with its salvage project so long as STI does not disturb any geodetic station markers. Accordingly, SEA recommends that STI be required to notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

In the EA, SEA indicates that the right-of-way may be suitable for other public use following abandonment and salvage of the rail line. As stated, Allegheny Valley filed a request for the issuance of a NITU under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and 49 CFR 1152.29, and for the issuance of a 180-day public use condition, pursuant to 49 U.S.C. 10905. Allegheny Valley requests that STI be prohibited from [*4] disposing of the corridor, other than the tracks, ties, and signal equipment, except for public use on reasonable terms, and that STI be barred from removing or destroying any potential trail-related structures, such as bridges, trestles, culverts, and tunnels, for a 180-day period from the effective date of the abandonment exemption. Allegheny Valley states that the time is needed to review title information and commence negotiations with STI.

Allegheny Valley has submitted a statement of willingness to assume financial responsibility for the management of, for any legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against, the right-of-way, as required at 49 CFR 1152.29, and has acknowledged that the use of the right-of-way for trail purposes is subject to future reactivation for rail service. In its comments filed on July 18, 2007, STI indicates its willingness to negotiate with Allegheny Valley for interim trail use, provided it is permitted to salvage the tracks, ties, signals, and other track materials.

Because Allegheny Valley's request complies with the requirements of 49 CFR 1152.29 and STI is willing [*5] to negotiate for trail use, a NITU will be issued. The parties may negotiate an agreement during the 180-day period prescribed below. If the parties reach a mutually acceptable final agreement, no further Board action is necessary. If no agreement is reached within 180 days, STI may fully abandon the line, subject to any outstanding conditions. See 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

As an alternative to interim trail use under the Trails Act, the right-of-way may be acquired for public use under 49 U.S.C. 10905. See *Rail Abandonments--Use of Rights-of-Way As Trails*, 2 I.C.C.2d 591, 609 (1986). Under section 10905, the Board may prohibit the disposal of rail properties that are proposed to be abandoned and are appropriate for public purposes for a period of not more than 180 days after the effective date of the decision approving or exempting the abandonment.

To justify a public use condition, a party must set forth: (i) the condition sought; (ii) the public importance of the condition; (iii) the period of time for which the condition [*6] would be effective; and (iv) justification for the imposition of the period of time requested. See 49 CFR 1152.28(a)(2). Because Allegheny Valley has satisfied these requirements, a 180-day public use condition will be imposed, commencing from the July 28, 2007 effective date of the exemption.

When the need for interim trail use/rail banking and public use is shown, it is the Board's policy to impose both conditions concurrently, subject to the execution of a trail use agreement. If a trail use agreement is reached on a portion of the right-of-way, STI must keep the remaining portion intact for the remainder of the 180-day period to permit public use negotiations. Also, a public use condition is not imposed for the benefit of any one potential purchaser, but rather to provide an opportunity for an interested person to acquire the right-of-way that has been found suitable for public purposes, including trail use. Therefore, with respect to the public use condition, STI is not required to deal exclusively with Allegheny Valley, but may engage in negotiation with other interested persons.

As conditioned, this decision will not significantly affect either the quality of the human [*7] environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.

2. Upon reconsideration, the notice served on and published in the Federal Register on June 28, 2007, exempting the abandonment of the line described above, is modified to the extent necessary: (1) to permit public use negotiations as set forth below, for a period of 180 days commencing from the July 28, 2007 effective date of the exemption (until January 24, 2008); and (2) to implement interim trail use/rail banking as set forth below to permit Allegheny Valley to negotiate with STI for trail use of the subject line, for a period of 180 days (until January 24, 2008). It also is subject to the condition that STI shall consult with NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

3. Consistent with the public use and interim trail use/rail banking conditions imposed in this decision and notice, STI may discontinue service and salvage track and related materials. STI shall keep intact the right-of-way, including bridges, trestles, culverts, and tunnels, for a period of 180 days to enable any state or local government [*8] agency, or other interested person, to negotiate the acquisition of the line for public use. If an interim trail use/rail banking agreement is executed before January 24, 2008, the public use condition will expire to the extent the trail use/rail banking agreement covers the same line.

4. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.

5. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.

6. If interim trail use is implemented, and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

7. If an agreement for interim trail use/rail banking is reached by January [*9] 24, 2008, interim trail use may be implemented. If no agreement is reached by that time, STI may fully abandon the line provided the other conditions imposed in this proceeding are met. See 49 CFR 1152.29(d)(1).

8. This decision is effective on its service date.

EXHIBIT C

40555
DO

SERVICE DATE – LATE RELEASE JANUARY 29, 2010

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-1004X

SHANNON TRANSPORT, INC.—ABANDONMENT EXEMPTION—
IN CLARION COUNTY, PA

Decided: January 29, 2010

Shannon Transport, Inc. (STI), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon approximately 12.5 miles of rail line, extending between milepost 6.0 and milepost 4.0 in or near Lawsonham, and the connecting line between milepost 0.0 near Lawsonham and milepost 10.5 near Sligo, in Clarion County, PA (line). Notice of the exemption was served and published in the Federal Register (72 FR 35546-47) on June 28, 2007 (June 2007 notice).¹

By decision and notice of interim trail use or abandonment (NITU) served on July 27, 2007 (July 2007 decision), the proceeding was reopened and a 180-day period was authorized for Allegheny Valley Land Trust (Allegheny Valley) to negotiate an interim trail use/rail banking agreement with STI for the right-of-way involved in this proceeding pursuant to the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act).² The negotiating period under the NITU was extended by several decisions, with the most recent decision served on July 28, 2009. The latest NITU extension expired on January 13, 2010.

By letter filed on January 20, 2010, Allegheny Valley requests an additional 180-day extension of the NITU negotiating period. Allegheny Valley states that a sales agreement has been reached and that Allegheny Valley is securing the insurance required by the agreement. Allegheny Valley further states that the extension will allow time for a survey of the corridor to be completed and entered into the transaction. On January 14, 2010 (prior to the receipt of Allegheny Valley's extension request), the Board received a letter from STI stating that it is agreeable to a 180-day extension of 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

¹ The June 2007 notice embraced STB Docket No. AB-369 (Sub-No. 6X), Buffalo & Pittsburgh Railroad, Inc.—Discontinuance Exemption—in Clarion and Jefferson Counties, PA.

² In addition to interim trail use, the July 2007 decision also imposed a public use condition that expired on January 24, 2008, and may not be extended, and a consultation condition regarding the salvage of the line.

retains jurisdiction and the NITU negotiating period may be extended.³ 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 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 Trails Act. Accordingly, the NITU negotiating period will be extended for an additional 180 days from January 13, 2010, to July 12, 2010.

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

It is ordered:

1. Allegheny Valley's request to extend the NITU negotiating period for an additional 180 days is granted.
2. The negotiating period under the NITU is extended to July 12, 2010.
3. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

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

EXHIBIT D

Allegheny Valley Land Trust
P.O. Box 777 Kittanning, PA 16201
Phone: 724-543-4478 Fax: 724-543-1783
Email: armntrail@windstream.net Web: www.armstrongtrail.org

227407



July 2, 2010

Cynthia T. Brown
Chief, Section of Administration
Office of Proceeding, Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: Shannon Transport, Inc.
Abandonment Exemption in Clarion County
STB Docket No. AB1004 (X)

Dear Ms. Brown:

This is a notification from the Allegheny Valley Land Trust that an agreement was reached with Shannon Transport, Inc for public use/ interim trail use/ railbanking. Closing on the acquisition was effective on June 25, 2010.

The property, known as the Shannon Transport, Inc. line connects the Pittsburgh & Shawmut Railroad, LLC line at milepost 6.0 and extends westward to the end of track milepost 4.0, and the connecting former Sligo Running Track which runs from milepost 0.0 near Lawsonham, Clarion County, Pennsylvania northward to milepost 9.0 near Sligo, Clarion County, Pennsylvania. The right-of-way is the line of railroad proposed for Abandonment by Shannon Transport, LLC in STB Docket No. AB1004 (Sub-No. X).

By decision served January 29, 2010, the Surface Transportation Board granted an extension of 180 days period to July 12, 2010 to finalize and close on an agreement for interim trail/railbanking. An agreement and closing have been completed within the time period.

By my signature below, I certify service upon Shannon Transport representative Eric M. Hocky, Esquire.

Eric M. Hocky, Esquire
Thorp Reed & Armstrong, LLP
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103

ENTERED
Office of Proceedings
JUL 8 2010
Part of
Public Record

by U.S. Mail, postage pre-paid, first class, this 2nd day of July 2010.

Respectfully submitted,

Ronald J. Steffey
on behalf of Allegheny Valley Land Trust