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SERVICE DATE – DECEMBER 21, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 250X)

NORFOLK SOUTHERN RAILWAY COMPANY–ABANDONMENT EXEMPTION–
IN CHAMPAIGN COUNTY, IL

Decided: December 21, 2007

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon an approximately 0.18-mile rail line extending between approximately milepost UM 28.50 and milepost 28.68 in Urbana, Champaign County, IL. Notice of the exemption was served and published in the Federal Register on November 30, 2004 (69 FR 69682-83). By decision and notice of interim trail use or abandonment (NITU) served on December 29, 2004, the proceeding was reopened and a 180-day period was authorized for the Urbana Park District (District), the City of Urbana (City), and the Champaign County Design and Conservation Foundation (Foundation) to negotiate an interim trail use/rail banking agreement with NSR for the right-of-way involved in this proceeding.¹ The trail use negotiating period was scheduled to expire on June 27, 2005. By decisions served on June 22, 2005, December 23, 2005, June 21, 2006, and October 10, 2007, the NITU negotiating period was extended until December 16, 2007.

On December 10, 2007, the District, on behalf of itself, the City, and the Foundation filed a request for an extension of the NITU negotiating period until June 13, 2008. The District states that it continues to negotiate with NSR. NSR consents to the extension request.

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, 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). Accordingly, the NITU negotiating period will be extended to June 13, 2008. Given the time that has elapsed since abandonment was authorized, the parties are urged to conclude their negotiations so that further extensions will not be necessary.

¹ The decision and notice also made the exemption subject to a salvage condition and to a public use condition. The public use condition, which is limited by statute to 180 days, expired on June 28, 2005, and may not be extended.

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

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

It is ordered:

1. The District's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended until June 13, 2008.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary