

ENTERED
Office of Proceedings

MAY 27 2008

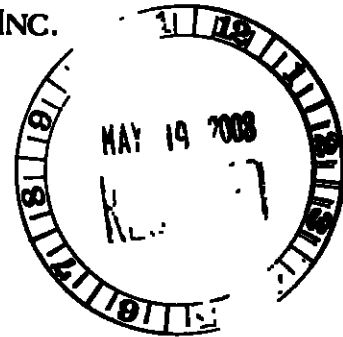
Part of
Public Record



ROANOKE RIVER RAILS-TO-TRAILS, INC.

POST OFFICE BOX 150
SOUTH HILL, VIRGINIA 23970
434 447 7101 134 447 7104 (toll free)
www.tobaccoheritagetrail.org

May 13, 2008



Honorable Vernon A. Williams, Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

222448

Re Request for Extension Docket Number AB-290 (Sub-No 287 X) Norfolk Southern Railway Company—Abandonment Exemption in Brunswick County, Virginia

Dear Secretary Williams

On May 16, 2007, Roanoke River Rails-to-Trails, Inc (RRRT) filed a request for the issuance of a notice of interim trail use and a public use condition to permit the non-profit corporation to negotiate with Norfolk Southern Railway Company (NS). The exception was ordered effective June 1, 2007 for a period of 180 days. In November, an extension to May 26, 2008 to requested and granted (see attached)

RRRT and NS have advanced their negotiations for acquisition of the right of way as a recreational trail, however, additional time is still needed to complete the contract. Therefore, Roanoke River Rails-to-Trails, Inc requests an extension of an additional 180 days to November 21, 2008.

The property, known as the Norfolk and Southern Railway, extends from milepost FD 92.4 to milepost FD 95.2, in Lawrenceville, Brunswick County, Virginia. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket Number AB-290 (Sub-No 287 X).

By my signature below, I certify service of a copy of this statement upon Norfolk Southern Railway Company, by U S Mail, postage pre-paid, first class, this 13th day of May 2008.

Respectfully submitted,

Sandra F. Tanner

Sandra F. Tanner, President
Roanoke River Rails-to-Trails, Inc

FEE RECEIVED

MAY 27 2008

**SURFACE
TRANSPORTATION BOARD**

Cc James R. Paschall
Norfolk Southern
Three Commercial Place
Norfolk, Virginia 23510-2191

38607
DO

SERVICE DATE – DECEMBER 17, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 287X)



NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
BRUNSWICK COUNTY, VA

Decided: December 14, 2007

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 5.00-mile line of railroad between mileposts FD 90 20 and FD 95 20, in Lawrenceville, Brunswick County, VA. Notice of the exemption was served and published in the Federal Register on May 2, 2007 (72 FR 15755-56). The exemption became effective on June 1, 2007.

By decision and notice of interim trail use or abandonment (NITU) served on May 31, 2007, the proceeding was reopened and a 180-day period (until November 28, 2007) was authorized for Roanoke River Rails-to-Trails, Inc. (Roanoke), to negotiate an interim trail use/rail banking agreement with NSR for the right-of-way involved in this proceeding pursuant to the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). The decision also imposed a condition requiring NSR to retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or are listed in the National Register of Historic Places (generally, 50 years old or older) until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).¹

According to SEA, in a letter dated October 22, 2007, the Virginia State Historic Preservation Office (VASHPO) indicates that the proposed abandonment would have no adverse effect upon the Lawrence Historic District provided that NSR agrees to: (1) reclassify the rail line between mileposts FD 90 20 and FD 92.40 as industrial lead track, with no salvage of tracks or materials, and (2) leave intact the 2.8-mile segment between mileposts FD 92.40 and FD 95 20 for potential interim trail use to preserve the historic character of the Lawrenceville Historic District. SEA further states that, in a letter dated October 31, 2007, NSR has agreed to the conditions outlined by VASHPO, and has also agreed to leave the bridges, culverts and appurtenant railroad structures such as round houses, lights, signs, etc., in place. SEA adds that NSR has requested that the Board remove the section 106 condition.

¹ The May 31 decision also imposed a public use condition, which expired on November 28, 2007.

Based on the information provided, SEA recommends that the section 106 historic preservation condition imposed in the May 31, 2007 decision be removed. Given SEA's recommendation, the section 106 condition will be removed.

By letter dated November 30, 2007, Roanoke filed a request for an additional 180-day extension of the NITU negotiating period. Roanoke states that it and NSR are currently negotiating terms for acquisition of the right-of-way as a recreational trail, but that additional time is needed to complete the contract. NSR states that it is willing to continue to negotiate for interim trail use/rail banking with Roanoke and supports Roanoke's 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 from November 28, 2007, to May 26, 2008.

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

It is ordered:

1. Roanoke's request to extend the negotiating period is granted
2. The negotiating period under the NITU is extended to May 26, 2008.
3. Upon reconsideration, the section 106 historic preservation condition imposed in the decision served May 31, 2007, is removed.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

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