

SERVICE DATE – JULY 2, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1031X

EAST TENNESSEE RAILWAY, L.P.—ABANDONMENT EXEMPTION—IN
WASHINGTON AND CARTER COUNTIES, TENN.

Decided: July 2, 2010

On January 5, 2010, a decision and notice of interim trail use or abandonment (NITU) was served in this proceeding authorizing a 180-day period for Johnson City, Tenn. (City), to negotiate an interim trail use/rail banking agreement with East Tennessee Railway, L.P. (ETRY) for a segment of ETRY's rail line located between milepost 1.2 in the City and milepost 11.2 at the end of the line in Elizabethton, in Washington and Carter Counties, Tenn.¹ The NITU negotiating period is scheduled to expire on July 4, 2010.

By letter filed on June 9, 2010, the City requests an extension of the NITU negotiating period for an additional 180 days, until December 31, 2010. The City states that the parties have negotiated a rail banking agreement in good faith and are close to agreeing to the final terms, but additional time is needed to complete a contract for corporate and city council approvals. In a response filed on June 14, 2010, ETRY states that it is agreeable to an extension of the NITU negotiating period for an additional 180 days.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. § 1247(d).² Accordingly, the NITU negotiating period will be extended for an additional 180 days from July 4, 2010, until December 31, 2010.

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

¹ Two environmental conditions also were imposed in that decision, one of which was a historical preservation condition.

² See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

It is ordered:

1. The City's request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended until December 31, 2010.
3. This decision is effective on the date of service.

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