

41755
DO

SERVICE DATE – JULY 19, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 117 (Sub-No. 7X)

ELGIN, JOLIET & EASTERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—
IN LAKE COUNTY, IND.

Decided: July 18, 2011

In this decision, an extension is granted for negotiating a trail use/rail banking agreement. Elgin, Joliet & Eastern Railway Company (EJ&E) filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon its line of railroad between milepost 46.10 and milepost 48.28, a distance of 2.18 miles, in Hammond, Lake County, Ind. Notice of the exemption was served and published in the Federal Register on June 8, 2010 (75 Fed. Reg. 32,535-36). The exemption became effective on July 8, 2010.

By decision and notice of interim trail use or abandonment (NITU) served on July 7, 2010 (July 7 decision), the proceeding was reopened and the exemption was made subject to interim trail use/rail banking and public use. A 180-day period was authorized to permit public use negotiations and to permit both the Indiana Trails Fund, Inc. (ITFI), and the Northwest Indiana Railroad Preservation Society (NIRPS) to negotiate an interim trail use/rail banking agreement with EJ&E for the described line, pursuant to the National Trail System Act, 16 U.S.C. § 1247(d). The trail use negotiating period was set to expire on January 3, 2011. By decision served on January 20, 2011, the NITU negotiation period was extended until July 3, 2011.

By letter filed on July 6, 2011, ITFI requests an extension of the negotiating period of 180 days, to December 28, 2011.¹ ITFI seeks the additional time to continue the negotiations toward interim trail use. In a response filed on July 7, 2011, EJ&E states that it agrees with the proposed extension request as set forth in ITFI's letter.²

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed NITU negotiating period and has agreed to continue negotiations, the Board

¹ The new NITU deadline sought by ITFI, December 28, 2011, is only 178 days from the previous deadline of July 3, 2011.

² NIRPS, the other potential trail sponsor for whom the NITU was established, has not sought an extension of its negotiating period under the NITU.

retains jurisdiction and the NITU negotiating period may be extended.³ Under the circumstances, extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Vill. v. Mo. Pac. R.R., 95 F.3d 654, 659 (8th Cir. 1996). Accordingly, the NITU negotiating period for ITFI will be extended until December 28, 2011.

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

It is ordered:

1. ITFI's request to extend the NITU negotiating period is granted.
2. The negotiating period for ITFI under the NITU is extended until December 28, 2011.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

³ See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).