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SERVICE DATE - JANUARY 26, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-167 (Sub-No. 1168X)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT
EXEMPTION--IN BROOKS AND HANCOCK COUNTIES, WV

Decided: January 21, 1999

By decision and notice of interim trail use or abandonment (NITU) served January 24, 1997, a 180-day period was authorized for West Virginia Rail Authority, City of Weirton and Harmon Creek Trail Association to negotiate an interim trail use/rail banking agreement with Consolidated Rail Corporation (Conrail) for a 4.00-mile portion for the Weirton Secondary Track between milepost 35.70 and milepost 39.70 in Brooke and Hancock Counties, WV.¹ Subsequently, by decisions served July 24, 1997, January 30, 1998, and July 20, 1998, the negotiation period was extended through January 16, 1999.

On January 15, 1999, the Harmon Creek Trail Association, Weirton Park and Recreation Board, and the West Virginia Rail Authority (collectively, petitioners) filed a request for an additional 180-day extension of the trail use negotiation period. Petitioners state that the property appraisal has been completed, but additional time is needed to complete a Phase I Environmental Site Assessment and complete the agreement between West Virginia Rail Authority and Conrail. By facsimile dated January 20, 1999, Conrail advised that it supports the 180-day extension request.

Because Conrail is willing to continue trail use negotiations with petitioners and an extension of the negotiation period will promote the establishment of trails and rail banking consistent with the National Trails Systems Act, 16 U.S.C. 1247(d), the requested extension will be granted.² The purpose of the Trails Act is to preserve rail corridors for possible reactivation of rail service by permitting and encouraging their interim use as recreational trails. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990).

¹ Notice of the exemption was published in the Federal Register on December 27, 1996 (61 FR 68334-35).

² Where, as here, the carrier has not consummated the abandonment and is willing to continue trail use negotiations, the Board retains jurisdiction to extend the NITU negotiation period. See Rail Abandonments--Supplement Trails Act Procedures, 4 I.C.C.2d 152 (1987); Missouri Pacific Railroad Company--Abandonment in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and St. Louis Southwestern Railway Company--Abandonment in Smith and Cherokee Counties, TX, Docket No. Ab-39 (Sub-No. 12) (ICC served Mar. 27, 1992).

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

It is ordered:

1. The negotiating period under the NITU is extended to July 15, 1999.
2. The decision is effective on its service date.

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

Vernon A. Williams
Secretary