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SERVICE DATE - DECEMBER 23, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-406 (Sub-No. 7X)

CENTRAL KANSAS RAILWAY, LIMITED LIABILITY COMPANY
--ABANDONMENT EXEMPTION--
IN BARTON, ELLSWORTH AND RICE COUNTIES, KS

Decided: December 21, 1998

On January 29, 1998, a decision and notice of interim trail use or abandonment (NITU) was served in this proceeding,¹ authorizing a 180-day period for Iowa Trails Council (ITC) to negotiate an interim trail use/rail banking agreement with Central Kansas Railway, Limited Liability Company (CKR) for a 53.2-mile portion of CKR's Little River Subdivision from milepost 577.1 near Lyons to milepost 594.1 near Lorraine, then from milepost 20.7 near Lorraine to milepost 56.9 near Galatia, in Barton, Ellsworth and Rice Counties, KS. In a decision served on July 6, 1998, the negotiating period was extended to December 23, 1998.

By letter dated December 16, 1998, ITC requested an extension of the negotiating period for an additional 180 days. ITC states that the extension of time will allow the parties to finalize an agreement to acquire the subject right-of-way for the purpose of converting it to a "recreation and energy efficient transportation trail." Also, by letter filed on December 18, 1998, CKR states that it is agreeable to an extension of the NITU for an additional 180-day period.

An extension of the trail use negotiating period may be granted as long as the Board retains jurisdiction over the involved railroad right-of-way² and the carrier is willing to continue negotiations. Inasmuch as CKR has not consummated the abandonment and has indicated a willingness to continue to negotiate, the extension request can be granted.

¹ By decision served July 1, 1997, the Board issued a NITU which authorized a 180-day period for James D. Jennings of Jennings & Co. (Jennings) to negotiate an interim trail use/rail banking agreement with CKR for the right-of-way. That negotiating period expired on December 28, 1997. On January 26, 1998, Jennings submitted a fax transmittal indicating that he was no longer interested in negotiating for interim trail use/rail banking in this proceeding.

² See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Soo Line Railroad Company--Exemption--Abandonment in Waukesha County, WI, Docket No. AB-57 (Sub-No. 23X) (ICC served May 14, 1987); and Missouri-Kansas-Texas Railroad Company--Abandonment--In Pettis and Henry Counties, MO, Docket No. AB-102 (Sub-No. 16) (ICC served Apr. 26, 1991).

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The requested extension will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the extension will be granted.

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

It is ordered:

1. The request to extend the interim trail use negotiating period is granted.
2. The negotiating period under the NITU is extended for a period of 180 days from December 23, 1998, or until June 21, 1999.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary