

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-854X

ALLEGHENY AND EASTERN RAILROAD, INC.—ABANDONMENT EXEMPTION—IN
ELK AND CAMERON COUNTIES, PA

Decided: October 10, 2007

Allegheny & Eastern Railroad, Inc. (A&E),¹ filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon an 18.9-mile line of railroad extending between milepost 131, near St. Marys, in Elk County, and milepost 149.9, southeast of Emporium, in Cameron County, PA. Notice of the exemption was served and published in the Federal Register on September 30, 2003 (68 FR 56377-78). By decision and notice of interim trail use or abandonment (NITU) served October 30, 2003 (October 30 decision), the proceeding was reopened and the County of Cameron, in cooperation with the County of Elk, was authorized to negotiate an interim trail use/rail banking agreement with A&E for the right-of-way in this proceeding, pursuant to the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act).² The negotiating period under the NITU was extended by decisions served on April 12, 2004, July 22, 2004, October 25, 2004, April 22, 2005, July 22, 2005, October 21, 2005, April 21, 2006, and October 13, 2006. By decision and notice of interim trail use or abandonment served on December 29, 2006 (December 29 decision), the proceeding was reopened and a replacement NITU applicable to the West Creek Recreational Trail Association, Inc. (WCRTA), as interim trail user, was issued.³ By decisions served on January 12, 2007, and April 13, 2007, the negotiating period under this NITU was extended, and now is scheduled to expire on October 10, 2007.

¹ As of January 1, 2004, A&E merged with Buffalo & Pittsburgh Railroad, Inc. (BPRR), with BPRR as the surviving entity.

² The October 30 decision also made the exemption subject to a public use condition, a historic preservation condition, and two environmental conditions. The public use condition expired on April 28, 2004, and may not be extended. The section 106 historic preservation condition was removed by decision served on December 1, 2003. The two environmental conditions remain in effect.

³ The December 29 decision also vacated the NITU granted in the October 30 decision.

On October 5, 2007, WCRTA filed a request to extend the NITU negotiating period for 90 days, until January 8, 2008. WCRTA states that it is nearing an agreement but more time is needed to complete the appraisal process. In a response received on October 9, 2007, A&E concurs in the request to extend the negotiating period.

Where, as here, the carrier is willing to continue trail use negotiations, the NITU negotiating period may be extended.⁴ An extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the Trails Act. Accordingly, the NITU negotiating period will be extended from October 10, 2007, to January 8, 2008. Given the time that has elapsed since abandonment was authorized, however, the parties are urged to conclude their negotiations so that further extensions will not be necessary.

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

It is ordered:

1. WCRTA's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended for 90 days, until January 8, 2008.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

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