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SERVICE DATE - MARCH 4, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-491X

R.J. CORMAN RAILROAD COMPANY/PENNSYLVANIA
LINES--ABANDONMENT EXEMPTION--IN CAMBRIA COUNTY, PA

Decided: March 1, 1999

A decision and notice of interim trail use or abandonment (NITU) served December 12, 1997, established a 180-day period (until June 10, 1998) for the Cambria and Indiana Trail Council (Council) to negotiate an interim trail use/rail banking agreement with the R.J. Corman Railroad Company/Pennsylvania Lines (RJCP) for the 9.6-mile line of railroad known as the Blacklick Secondary, extending from milepost 6.4 at Ebensburg Junction to the end of the track at milepost 16, east of Nanty Glo, in Cambria County, PA. Thereafter, pursuant to the offer of financial assistance provisions of 49 U.S.C. 10904, the Cambria and Indiana Railroad Company (C&I) was authorized to acquire a 4.5-mile portion of the line, between milepost 6.4 and a connection with C&I's track at milepost 10.45189. Otherwise, the trail use condition remains viable for the remainder of the line between milepost 10.45189 and milepost 16. By decision served July 8, 1998, the NITU negotiation period was extended until December 14, 1998.

On February 22, 1999, the Council filed a request to extend the NITU negotiation period for an additional 180 days (or until June 14, 1999).¹ The Council states that more time is needed to finalize negotiations. By letter filed February 25, 1999, RJCP concurred in the requested extension.

Even if the negotiation period expires, when a carrier consents to continue negotiations and has not consummated abandonment of the line at the end of the previously imposed period, the Board continues to have jurisdiction to grant an extension. Because an extension of the negotiation period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d), and the parties agree on the necessity for the extension, the request will be granted. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990). Accordingly, the NITU negotiation period will be extended until June 14, 1999.

¹ The 180-day period would normally run from December 14, 1998, when the prior trail use negotiation period expired. An extension to June 14, 1999, provides a period that is slightly longer than 180 days but is appropriate under these circumstances. The 180-day period is not statutory. It was adopted in Rail Abandonments--Use of Rights-of-Way as Trails, 2 I.C.C.2d 591, 605 (1986), to promote the expeditious conclusion of negotiations.

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

It is ordered:

1. The Council's request to extend the NITU negotiation period is granted.
2. The NITU negotiation period is extended until June 14, 1999.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary