

29390
DO

SERVICE DATE - JULY 6, 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: June 30, 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. The 180-day period under the NITU expired on June 26, 1998.

By letter filed June 25, 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 continue to negotiate the acquisition of the rail corridor. Also, by letter filed that same date, 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).

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

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 June 26, 1998, or until December 23, 1998.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary