

SERVICE DATE – OCTOBER 18, 2006

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-295 (Sub-No. 6X)

THE INDIANA RAIL ROAD COMPANY—ABANDONMENT EXEMPTION—
IN MONROE COUNTY, IN

Decided: October 17, 2006

The Indiana Rail Road Company (INRD) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 2.44-mile portion of its Ellettsville Branch from milepost Q216.13 near Loesch Road to the end of the line at Ellettsville, milepost Q213.69, in Monroe County, IN. Notice of the exemption was served and published in the Federal Register on April 15, 2005 (70 FR 19987-88). By decision and notice of interim trail use or abandonment (NITU) served on May 17, 2005, the proceeding was reopened and a 180-day period was authorized for the Monroe County Parks and Recreation Department (the County) to negotiate an interim trail use/rail banking agreement with INRD for the right-of-way involved in this proceeding.¹ By decisions served on November 8, 2005, and May 9, 2006, the NITU negotiating period was extended until November 9, 2006.

On September 29, 2006, Indiana Trails Fund, Inc. (ITF), and the Monroe County (IN) Parks and Recreation Board, on behalf of the County, jointly filed a request, pursuant to 49 CFR 1152.29(f), for the substitution of ITF as the interim trail user. ITF has submitted the required statement of willingness to assume financial responsibility for any period of interim trail use and has indicated the date of transfer of responsibility for the right-of-way. Although the parties did not submit a copy of the extant NITU, their submission substantially meets the requirements of 49 CFR 1152.29(f). Accordingly, the request will be granted.

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

It is ordered:

1. This proceeding is reopened.
2. The NITU served on May 17, 2005, is vacated.

¹ The decision and notice also made the exemption subject to several environmental conditions.

3. A replacement NITU applicable to ITF as interim trail user is issued, effective on the service date of this decision and notice.

4. The new trail user is required to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.

5. Interim trail use/rail banking is subject to the future restoration of rail service and to the new user's continuing to meet the financial obligations for the right-of-way.

6. If the new trail user enters into a trail use agreement with INRD and subsequently intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

7. This decision is effective on its service date.

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

Vernon A. Williams
Secretary