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SERVICE DATE - APRIL 8, 1997

SURFACE TRANSPORTATION BOARD¹

DECISION

Docket No. AB-3 (Sub-No. 90X)

MISSOURI PACIFIC RAILROAD COMPANY--ABANDONMENT EXEMPTION--
IN MUSKOGEE COUNTY, OK

Docket No. AB-3 (Sub-No. 66)

MISSOURI PACIFIC RAILROAD COMPANY--ABANDONMENT--
IN MUSKOGEE, WAGONER AND TULSA COUNTIES, OK

Decided: April 7, 1997

In a decision and certificate and notice of interim trail use or abandonment served on October 11, 1996, the Board modified the certificate issued in Docket No. AB-3 (Sub-No. 66) and the notice of exemption served in Docket No. AB-3 (Sub-No. 90X) to the extent necessary to implement interim trail use/rail banking. The Board authorized a 180-day period for the city of Muskogee (the City) to negotiate a trail use agreement with Missouri Pacific Railroad Company (MP) for the right-of-way of a 3.7-mile segment of the Midland Branch between milepost 97.50 and milepost 101.20.²

On March 31, 1997, the City filed a request for a further extension of time to July 7, 1997, stating that careful examination of complex land records, appraisal of the right-of-way and final approval of documents has taken longer than anticipated.³ It states that an extension should give sufficient time to conclude the final approval of a definitive agreement. By letter dated April 3, 1997, MP has consented to the extension.

The requested extension of the negotiation period will be granted. The City has shown that the additional time is

¹ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (the ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the ICCTA provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the ICCTA. This decision relates to proceedings that were pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this decision applies the law in effect prior to the ICCTA, and citations are to the former sections of the statute, unless otherwise indicated.

² This consisted of 2.7 miles from milepost 97.50 to milepost 100.20 in Docket No. AB-3 (Sub-No. 90X) and 1 mile from milepost 100.20 to milepost 101.20 in Docket No. AB-3 (Sub-No. 66).

³ In an apparent typographical error, the City refers to the 3.7-mile segment as from milepost 97.5 at Muskogee to milepost 106.2 at the end of the line.

necessary to complete negotiations. An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d).

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

It is ordered:

1. The City's request to extend the interim trail use negotiating period is granted.
2. The negotiation period is extended to July 7, 1997.
3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary