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SERVICE DATE – JANUARY 10, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 612X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–
IN GREENVILLE, SC

Decided: January 7, 2005

By decision and notice of interim trail use or abandonment (NITU) served on July 15, 2002, a 180-day period was authorized for the City of Greenville (the City) to negotiate an interim trail use/rail banking agreement with CSX Transportation, Inc. (CSXT) for approximately 1.31 miles of rail line between Valuation Station 47+50 and Valuation Station 115+11.5 in Greenville, Greenville County, SC. The negotiating period under the NITU was scheduled to expire on January 11, 2003, but was subsequently extended by decisions served on December 20, 2002, July 2, 2003, December 30, 2003, and July 9, 2004. The latest extension expired on December 31, 2004.¹

On December 22, 2004, CSXT filed a request to further extend the NITU negotiating period until June 29, 2005. By facsimile filed on January 3, 2005, the City also requested a further extension of the NITU negotiating period. CSXT states that it has not consummated the abandonment, has been unable to finalize negotiations with the City, and desires to continue to negotiate for interim trail use/rail banking with the City. Additionally, CSXT requests an extension of the consummation notice filing deadline until August 28, 2005.²

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, an extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). Extension of the consummation deadline is also justified. Accordingly, the NITU negotiating

¹ The July 15 decision also imposed a 180-day public use condition that expired on December 8, 2002.

² Under 49 CFR 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings.

period will be extended to June 29, 2005, and the consummation notice filing deadline will be extended to August 28, 2005.

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

It is ordered:

1. CSXT's and the City's requests to extend the NITU negotiating period are granted.
2. CSXT's request for an extension of time to exercise the abandonment authority is granted.
3. The negotiating period under the NITU is extended to June 29, 2005.
4. The authority to abandon must be exercised on or before August 28, 2005.
5. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary