

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 675X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN
WARE COUNTY, GA.

Decided: March 14, 2012

On February 1, 2008, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period, until July 31, 2008, for the City of Waycross, Ga. (Waycross), to negotiate an interim trail use/rail banking agreement with CSX Transportation, Inc. (CSXT) for a 1.08-mile rail line on CSXT's Southern Region, Jacksonville Division, Fitzgerald Subdivision, between mileposts AP 588.84 and AP 587.76 in Waycross, Ware County, Ga.¹ The negotiating period under the NITU was subsequently extended, with the latest extension scheduled to expire on March 16, 2012.

By letter filed on March 8, 2012, Waycross requests another 180-day extension of the NITU negotiating period, until September 12, 2012, as the parties continue to negotiate for interim trail use/rail banking. In a response filed on the same date, CSXT states that it concurs with the extension request.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987). An extension of the NITU negotiating period 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 NITU negotiating period will be extended until September 12, 2012.²

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

¹ The February 1 decision authorized the exemption subject to a self-executing environmental condition requiring CSXT to consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

² Under 49 C.F.R. § 1152.29(e)(2), extension of the NITU negotiating period creates a regulatory barrier to consummation of the abandonment. For that reason, if the NITU negotiating period expires without the parties reaching an agreement, CSXT's notice of consummation will be due no later than 60 days thereafter. See 49 C.F.R. § 1152.29(e)(2).

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to September 12, 2012.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.