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SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 696X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN LUCAS
COUNTY, OHIO

Decided: June 22, 2011

This decision grants an extension of time to negotiate a trail use/rail banking agreement.

CSX Transportation, Inc. (CSXT) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 4.15 miles of rail line on its Northern Region, Chicago Division, Toledo Terminal Subdivision, between Temperance (milepost CTT 5.0) and Vulcan (milepost CTT 9.15), in Lucas County, Ohio.

Notice of the exemption was served on February 11, 2010, and published in the Federal Register on February 17, 2010 (75 Fed. Reg. 7,151-52). The exemption became effective on March 13, 2010.

By decision and notice of interim trail use or abandonment (NITU) served on March 12, 2010, the proceeding was reopened and, among other things, the exemption was made subject to a salvage-related consultation condition. In that decision, a 180-day period was authorized for Metroparks of the Toledo Area (Metroparks) to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way. The negotiating period under the NITU was extended several times, most recently (by decision served on January 28, 2011) until June 30, 2011.

By letter filed on June 10, 2011, Metroparks requests an extension of the NITU negotiating period until December 27, 2011. Metroparks states that it and CSXT have reached an agreement in principal and the parties diligently are working to finalize the agreement but may need additional time beyond the current negotiating deadline. In a response filed on June 13, 2011, CSXT agrees to Metroparks' request to extend the NITU negotiating period until December 27, 2011.¹

¹ CSXT notes that, 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 having reached an agreement, CSXT's notice of consummation will be due not later than 60 days thereafter. See 49 C.F.R. § 1152.29(e)(2).

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. 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).² Accordingly, the NITU negotiating period will be extended until December 27, 2011.

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

It is ordered:

1. Metroparks' request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to December 27, 2011.
3. This decision is effective on its service date.

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

² See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).