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SERVICE DATE – OCTOBER 6, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 687X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–IN
FULTON AND CLAYTON COUNTIES, GA

Decided: October 2, 2009

On September 9, 2008, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period, until March 12, 2009, for the City of College Park, GA (City), to negotiate an interim trail use/rail banking agreement with CSX Transportation, Inc. (CSXT) for a 1.67-mile line of railroad on CSXT's Southern Region, Atlanta Division, Atlanta Terminal Subdivision, between Valuation Station 0+00 and the end of the line, Valuation Station 88+00, in Fulton and Clayton Counties, GA. The negotiating period under the NITU was subsequently extended, with the latest extension expiring on September 9, 2009.

By letter filed on September 15, 2009, the City requests an additional extension of the NITU negotiating period. The City states that the parties have continued to negotiate for trail use and anticipates concluding negotiations for a trail use agreement, subject to final approval of the purchase contract by the Mayor and City Council. In a response filed on September 24, 2009, CSXT states that it concurs with the City's request and that it has not consummated the abandonment. CSXT requests a 90-day extension of the 90-day negotiating period, commencing from September 9, 2009. Also, CSXT requests an extension of the time to file its notice of consummation until February 5, 2010.

Even if a negotiating period expires, when a carrier consents to continuing negotiations and has not consummated abandonment of the line, the Board continues to have jurisdiction to grant an extension. Under the circumstances, further 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). Accordingly, the NITU negotiating period will be extended for 90 days, commencing from September 9, 2009, and the time to consummate the abandonment and file a notice of consummation will be extended until February 5, 2010.

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

It is ordered:

1. The request to extend the interim trail use negotiating period is granted.

2. The request to extend the time to consummate the abandonment and file a notice of consummation is granted.
3. The negotiating period under the NITU is extended to December 8, 2009.
4. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before February 5, 2010.
5. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary