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SERVICE DATE – FEBRUARY 24, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 656X)

CSX TRANSPORTATION, INC.–ABANDONMENT
EXEMPTION–IN MARION COUNTY, WV

Decided: February 23, 2009

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 17.51-mile line of its Southern Region, Huntington Division East, Fairmont Subdivision, between Barrackville, milepost BS 306.32, and Mannington, milepost BS 319.48, including the Dents Run Spur between milepost BSB 0.00 and milepost BSB 4.35, in Marion County, WV. Notice of the exemption was served and published in the Federal Register on September 8, 2005 (70 FR 53414-15). On October 6, 2005, a decision and notice of interim trail use or abandonment (NITU) was served, reopening the proceeding and authorizing a 180-day period for the Marion County Commission (County) to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way in this proceeding. At the request of either CSXT or the County, the negotiation period under the NITU was extended several times; the latest decision, served on October 1, 2008, extended the NITU negotiating period until March 20, 2009.¹

On, February 4, 2009, County filed a request to extend the NITU negotiation period. The County states that it and CSXT have been in discussions since the last extension regarding the proposed trails and hoped to reach a final agreement in advance of the current NITU extension deadline. The County explains that, in addition to negotiating with CSXT, it was simultaneously working to secure funding for the trail but it has not yet been advised about that funding. On February 5, 2009, CSXT filed its response stating that it concurs with the extension request and requests that the NITU be extended for 180 days to September 16, 2009. In addition, CSXT requests an extension of the consummation notice filing deadline until November 15, 2009.²

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. Because an extension of the NITU negotiating period and of the

¹ That decision also extended the deadline for CSXT to file its notice of consummation of the abandonment until June 19, 2009.

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.

consummation notice filing deadline will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d),³ the requested extensions will be granted. Accordingly, as requested by the parties, the NITU negotiation period will be extended until September 16, 2009, and the deadline for CSXT's filing of a notice of consummation will be extended to November 15, 2009. Given the time that has elapsed since abandonment was authorized, the parties are urged to conclude their negotiations so that further extensions are not necessary.

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

It is ordered:

1. The County's and CSXT's request to extend the NITU negotiating period and CSXT's request for an extension of time to exercise abandonment authority are granted.
2. The negotiating period under the NITU is extended until September 16, 2009.
3. The authority to abandon must be exercised on or before November 15, 2009.
4. This decision is effective on the date of service.

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

Anne K. Quinlan
Acting Secretary

³ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).