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SERVICE DATE – JANUARY 14, 2010

SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: January 13, 2010

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 December 8, 2009.

By amended letter filed on January 4, 2010,¹ the City requests a 90-day extension of the NITU negotiating period, commencing from December 8, 2009, until March 8, 2010. The City states that it has been unable to finalize negotiations with CSXT and requests an extension in order to conclude the acquisition of the property. CSXT filed a response in which it concurs with the City's request and states that it has not consummated the abandonment. Also, CSXT requests an extension of the date to file its notice of consummation until May 7, 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 December 8, 2009, until March 8, 2010, and the time to consummate the abandonment and file a notice of consummation will be extended until May 7, 2010.

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

¹ The NITU extension request was originally filed on December 22, 2009. However, the request contained incorrect information pertaining to the extension expiration date and consummation date.

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 March 8, 2010.
4. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before May 7, 2010.
5. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.