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SERVICE DATE –LATE RELEASE JULY 18, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 603X)

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

Decided: July 18, 2006

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon approximately 10.5 miles of railroad between milepost BUG-0.0 at Cowen and milepost BUG 10.5 at Bolair, in Webster County, WV. Notice of the exemption was served and published in the Federal Register on February 11, 2002 (67 FR 6320-21). On July 30, 2002, a decision and notice of interim trail use or abandonment (NITU) was served, reopening the proceeding and authorizing a 180-day period for Webster County Chamber of Commerce (Webster County) to negotiate an interim trail use/rail banking agreement with CSXT for the entire right-of-way involved. At the request of CSXT, the negotiating period under the NITU was extended several times; the latest extension granted by decision served January 24, 2006, extended the negotiating deadline until July 17, 2006. The January 24 decision also extended the deadline for CSXT to file its notice of consummation until September 15, 2006.¹

On July 17, 2006, CSXT filed a request to extend the NITU negotiation period until January 14, 2007. CSXT states that it has not consummated the abandonment and has been unable to finalize negotiations but desires to continue negotiations for interim trail use/rail banking with Webster County. Additionally, CSXT requests an extension of the consummation notice filing deadline until March 15, 2007.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and indicated its willingness to continue negotiations by requesting an extension, the Board retains jurisdiction and the NITU negotiating period may be extended. 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). Accordingly, the NITU negotiation period will be

¹ 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.

extended to January 14, 2007,² and the consummation deadline will be extended to March 5, 2007.

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

It is ordered:

1. CSXT's request to extend the NITU negotiating period is granted and its request for an extension of time to exercise the abandonment authority is granted.
2. The negotiating period under the NITU is extended to January 14, 2007.
3. The authority to abandon must be exercised on or before March 15, 2007.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

² Although the request slightly exceeds the customary request of 180 days, the Board has granted such request in the past. See, e.g., CSXT Transportation, Inc.—Abandonment Exemption—Jefferson County, AL, STB Docket No. AB-55 (Sub-No. 613X) (STB served Oct. 22, 2004).