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SERVICE DATE - JULY 15, 2004

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-55 (Sub-No. 577X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–
IN WAYNE COUNTY, IN

Decided: July 14, 2004

In a decision served in this proceeding on September 5, 2000, the Board granted a petition filed by CSX Transportation, Inc. (CSXT) for an exemption that would permit it to abandon a 1.31-mile portion of rail line extending from railroad Milepost CI-61.90 to railroad Milepost CI-63.21 in Richmond, Wayne County, IN. A decision and notice of interim trail use or abandonment (NITU) served on October 4, 2000, established a 180-day period (until April 3, 2001) for the Parks and Recreation Department of the City of Richmond, IN, to negotiate an interim trail use/rail banking agreement with CSXT for the line at issue. Decisions served on April 30, 2001, August 14, 2001, February 8, 2002, May 28, 2002, November 25, 2002, June 6, 2003, and January 9, 2004, extended the NITU negotiation period and the deadline for CSXT to file notice that it has consummated the abandonment. The most recent decision extended both until June 30, 2004.

In a letter dated June 29, 2004, CSXT requests extension of the NITU negotiating period until December 27, 2004. CSXT indicates that the additional time is needed to complete trail use negotiations.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and has 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), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended until December 27, 2004.

This action 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.

2. The NITU negotiating period is extended to December 27, 2004.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary