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SERVICE DATE – SEPTEMBER 3, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 696X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN LUCAS  
COUNTY, OHIO

Decided: September 2, 2010

CSX Transportation, Inc. (CSXT), filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 4.15 miles of rail line on its Northern Region, Chicago Division, Toledo Terminal Subdivision, between Temperance (milepost CTT 5.0) and Vulcan (milepost CTT 9.15), in Lucas County, Ohio. Notice of the exemption was served on February 11, 2010, and published in the Federal Register on February 17, 2010 (75 Fed. Reg. 7,151-52). The exemption became effective on March 13, 2010.

By decision and notice of interim trail use or abandonment (NITU) served on March 12, 2010 (March 12 decision), the proceeding was reopened and a 180-day period was authorized for Metroparks of the Toledo Area (Metroparks) to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way in this proceeding.<sup>1</sup> The negotiating period under the NITU is scheduled to expire on September 8, 2010.

By letter filed on August 25, 2010, Metroparks requests an extension of the NITU negotiating period until March 9, 2011.<sup>2</sup> Metroparks states that Metroparks and CSXT have reached an agreement in principal but additional time is needed to obtain final approvals of the agreement. In a response filed on August 30, 2010, CSXT agreed to Metroparks' extension request.<sup>3</sup>

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<sup>1</sup> The March 12 decision also imposed a 180-day public use condition, which is scheduled to expire on September 9, 2010, and by statute may not be extended. In addition, 1 environmental condition was imposed, which remains in effect, but is self-executing and is not a barrier to consummation by CSXT of its abandonment authority.

<sup>2</sup> Although the request exceeds the customary request of 180 days (here, March 7, 2011), the Board has granted such requests in the past. See, e.g., S. Pac. Transp. Co.—Aban. Exemption—in Wendel-Alturas Line in Modoc & Lassen Counties, Cal., Docket No. AB 12 (Sub-No. 184X) (STB served Sept. 1, 2005).

<sup>3</sup> CSXT notes that, pursuant to 49 C.F.R. § 1152.29(e)(2), an extension of the NITU negotiating period creates a regulatory barrier to consummation of the abandonment. Because an  
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Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. § 1247(d).<sup>4</sup> Accordingly, the NITU negotiating period will be extended until March 9, 2011.

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

It is ordered:

1. Metroparks' request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU negotiating period is extended to March 9, 2011.
3. This decision is effective on its service date.

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

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impediment to consummation exists, such as a trail use condition, CSXT does not need a separate extension of the deadline for filing a notice of consummation. CSXT's notice of consummation will be due 60 days after satisfaction, expiration, or removal of the regulatory barrier.

<sup>4</sup> See Rail Aban.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).