

38425
DO

SERVICE DATE – SEPTEMBER 28, 2007

SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: September 27, 2007

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 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.¹ At the request of CSXT, the negotiating period under the NITU was extended several times; the latest decision, served on April 18, 2007, extended the negotiation period until September 28, 2007. The April 18, 2007 decision also extended the deadline for CSXT to file its notice of consummation until November 27, 2007.

On September 24, 2007, CSXT filed a request to extend the NITU negotiation period until March 26, 2008. CSXT states that it has not consummated the abandonment and has been unable to finalize negotiations, but desires to continue to negotiate for an interim trail use/rail banking agreement with the County. CSXT states that, in addition, the Trust for Public Land has become involved as a facilitator in this transaction.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.² An extension of negotiating period will promote the establishment of

¹ The October 6, 2005 decision and notice also made the exemption subject to an environmental condition that required CSXT to provide the National Geodetic Survey (NGS) with 90 days' notice prior to conducting any salvage activities so that NGS may plan the relocation of the identified geodetic station markers.

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

trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiation period will be extended for an additional 180 days from September 28, 2007 (until March 26, 2008).

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.
2. The negotiating period under the NITU is extended until March 26, 2008.
3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary