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SERVICE DATE – FEBRUARY 15, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 592X)

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

Decided: February 12, 2007

By decision and notice of interim trail use or abandonment (NITU) served on October 9, 2001, a 180-day period was authorized for CSX Transportation, Inc. (CSXT), to negotiate an interim trail use/rail banking agreement with the City of Jeffersonville, IN (the City), for a 5.4-mile segment of its Midwest Region railroad line, known as the Louisville Division, Louisville Terminal/Hoosier Subdivision, extending between milepost B-1.3, near Watson, and milepost B-6.7, near Jeffersonville, in Clark County, IN.

In a decision served on April 5, 2002, the negotiating period was extended only for the line segment between milepost B-1.3 and milepost B-4.96. Subsequently, by decision served on April 30, 2002, the negotiating period was extended for the line segment between milepost B-5.52 and milepost B-6.7. The negotiating period under the NITU for both line segments was extended several times, with the latest decision, served on July 28, 2006 (July 2006 decision), extending the NITU negotiating period until January 25, 2007. The July 2006 decision also extended the deadline for CSXT to file its notice of consummation until March 26, 2007.

By letter filed on January 29, 2007, CSXT requests a 180-day extension of the NITU negotiating period, until July 24, 2007. CSXT states that it has not consummated the abandonment and desires to continue to negotiate trail use with the City. Additionally, CSXT requests an extension of the consummation notice filing deadline until September 22, 2007.¹

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 agreeing to an extension, the Board retains jurisdiction and the NITU negotiating period may be extended.² 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). An extension of the NITU negotiating period and the consummation notice filing deadline will promote the establishment of trail use and rail banking

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.

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

consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended for a period of 180 days, from January 25, 2007, to July 24, 2007, and the consummation notice filing deadline will be extended from March 26, 2007, until September 22, 2007. Given the time that has elapsed since abandonment was authorized, the negotiation parties are urged to conclude their negotiations so that further extensions are not necessary.

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 and to extend the time to exercise the abandonment authority is granted.
2. The negotiating period under the NITU is extended to July 24, 2007.
3. The authority to abandon must be exercised on or before September 22, 2007.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary