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SERVICE DATE – JUNE 20, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 646X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–IN PINELLAS
COUNTY, FL

Decided: June 17, 2005

By decision and notice of interim trail use or abandonment (NITU) served on June 18, 2004, a 180-day period was authorized for CSX Transportation, Inc. (CSXT), to negotiate an interim trail use/rail banking agreement with Pinellas County (the County) for a 1.85-mile line of railroad in CSXT's Southern Region, Jacksonville Division, Clearwater Subdivision, extending from milepost SY 893.80 to milepost SY 895.65, in St. Petersburg, Pinellas County, FL. The negotiating period under the NITU was extended by decision served on December 17, 2004 (December 2004 decision). The latest extension expired on June 13, 2005.

By letter filed on June 13, 2005, the County requests an additional 180-day extension of the NITU negotiating period. The County states that it is currently in the process of finishing all of the acquisition due diligence requirements and negotiations, but additional time is needed to conclude the acquisition of the property. On June 14, 2005, CSXT filed its response stating that it has not consummated the abandonment, has been unable to finalize negotiations with the County, and desires to continue to negotiate for interim trail use/rail banking with the County. Therefore, CSXT states that it agrees to the 180-day extension request by the County.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended.¹ 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 to December 10, 2005. The extension of the NITU negotiating period will have the effect of extending CSXT's deadline for filing its notice of consummation in the proceeding until February 8, 2006. See 49 CFR 1152.29(e)(2).

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

¹ See Rail Abandonments–Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

It is ordered:

1. The County's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to December 10, 2005.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary