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SERVICE DATE – JUNE 24, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 501X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN LUCAS AND
WOOD COUNTIES, OHIO

Decided: June 23, 2011

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 2.15 miles of railroad between milepost CO-14.31 at River Road in Lucas County, Ohio, and milepost CO-16.46 at Bates in Wood County, Ohio. Notice of the exemption was served and published in the Federal Register on March 8, 1995 (60 Fed. Reg. 12,783). The exemption became effective on April 7, 1995.

The Interstate Commerce Commission's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on March 16, 1995. In the EA, SEA recommended that a condition be imposed requiring CSXT to retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f. By decision served April 7, 1995, the recommended condition was imposed.

On July 2, 2010, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for Metroparks of the Toledo Area (Metroparks), to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way. The negotiating period under the NITU was extended to June 30, 2011, in a decision served February 16, 2011.

By letter filed on June 10, 2011, Metroparks requests another extension of the NITU negotiating period, until December 27, 2011. Metroparks states that the parties have reached an agreement in principal and are diligently working to finalize the agreement, but that additional time is needed in order to complete the negotiating process.¹ By letter filed on June 13, 2011, CSXT agrees to the extension request. Also, CSXT requests the Board to confirm that the consummation deadline for the abandonment will be February 25, 2012, if trail negotiations are unsuccessful.

¹ In its letter, Metroparks indicates that the milepost endpoint of this line has been incorrectly stated to be CO 16.46. According to Metroparks, the correct endpoint is CO 16.38. This decision reflects that correction.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.² 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). Accordingly, the NITU negotiation period will be extended until December 27, 2011, and the deadline to consummate the abandonment and file a notice of consummation will be February 25, 2012.³

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

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The NITU negotiating period for the right-of-way between milepost CO 14.31 and milepost CO 16.38 is extended until December 27, 2011.
3. This decision is effective on the date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

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

³ Under the Board's rules at 49 C.F.R. § 1152.29(e)(2), a railroad is required to file a notice of consummation within 60 days after expiration of a legal or regulatory barrier. Since the extension request granted herein is scheduled to expire on December 27, 2011, CSXT's deadline for filing its notice of consummation is February 25, 2012.