

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 568X)

CSX TRANSPORTATION, INC.--ABANDONMENT EXEMPTION--
IN FRANKLIN COUNTY, PA

Decided: March 30, 2001

By decision and notice of interim trail use or abandonment (NITU) served on March 9, 1999, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by CSX Transportation, Inc. (CSXT), of a 1.9-mile portion of its line of railroad known as the Baltimore Service Lane, Lurgan Subdivision, extending between milepost BAV-20.5 at 4th Street and milepost BAV-22.4 at Commerce Street in Chambersburg, Franklin County, PA, subject to public use, trail use and standard employee protective conditions. Subsequently, on March 12, 1999, Frederick A. Fox, Kaye A. Fox, Frederick Armstrong Fox, and Karla M. Fox (the offerors) filed an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27 to purchase that portion of the line from Valuation Station 1096+20 (including that portion of the line that crosses Main Street) to Valuation Station 1122+30 (not including that portion of the line that crosses South Street). By a decision served on March 23, 1999, the offerors were found to be financially responsible and the effective date of the decision authorizing abandonment on that portion of the line was postponed to permit the OFA process to proceed. In a decision served on May 7, 1999, the offerors were authorized to acquire that portion of the line, and it was stated that the petition for exemption as to that portion of the line would be dismissed effective on the date the sale is consummated.

In a letter filed on February 22, 2001, and served on CSXT, the offerors seek to withdraw their OFA. On March 16, 2001, CSXT filed a letter stating that it has no objection to the withdrawal request. Because the parties have not consummated the sale, the exemption petition as to that portion of the line has not been dismissed. Accordingly, the OFA process will be terminated, and the decisions served on March 23 and May 7, 1999, will be vacated, effective on the service date of this decision.

The March 9, 1999 decision authorized the Borough of Chambersburg (the Borough) to negotiate an interim trail use/rail banking agreement with CSXT for the portion of the line between Main Street at approximately milepost 20.8 and Commerce Street at approximately milepost 22.4, a distance of 1.6 miles. The subsequent OFA superseded a portion of the trail use proposal,¹ but the March 9 decision stated that, if a sale under the OFA procedures does not

¹ The NITU remained in effect for that portion of the line between South Street (including that portion of the line that crosses South Street) and Commerce Street.

occur, the trail use process may proceed. Accordingly, the trail use process is reinstated for that portion of the line formerly subject to the OFA.

On March 26, 2001, CSXT filed a third request to extend, until June 29, 2001, the time to consummate the abandonment and to file its notice of consummation. CSXT also requested that the NITU negotiating period be extended until the same date.² CSXT states that more time is needed to allow the parties adequate time to finalize the transaction.

CSXT has shown good cause to extend the time to consummate the abandonment and for filing a notice of consummation in this proceeding. Also, because CSXT is willing to continue negotiations, the NITU negotiating period may be extended.³ Accordingly, the abandonment consummation date and the NITU negotiating period will be extended until June 29, 2001.

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

It is ordered:

1. The OFA process in this proceeding is terminated and the decisions served on March 23 and May 7, 1999, are vacated. The NITU served on March 9, 1999, which granted the Borough's request for interim trail use/rail banking for the 1.6-mile line segment described above, still stands.
2. CSXT's request for an extension of time to exercise the abandonment authority and its request to extend the NITU negotiating period, are granted.
3. The authority to abandon must be exercised on or before June 29, 2001.
4. The negotiating period under the NITU is extended until June 29, 2001.
5. This decision is effective on its service date.

² CSXT's prior requests for extensions of time to exercise abandonment authority were granted and extended through March 31, 2001, by decisions served on March 22, 2000, and January 8, 2001. Its request to extend the NITU negotiating period was granted and extended through March 31, 2001, by decision served on January 8, 2001.

³ See Rail Abandonments-Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987).

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

Vernon A. Williams
Secretary