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SERVICE DATE - DECEMBER 9, 2002

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-55 (Sub-No. 606X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN ALLEGHENY COUNTY, PA

Decided: December 4, 2002

On June 14, 2002, a Decision and Notice of Interim Trail Use or Abandonment (NITU) was served in this proceeding, authorizing a 180-day period for the City of Pittsburgh, PA (Pittsburgh), to negotiate an interim trail use/rail banking agreement with CSX Transportation, Inc. (CSXT) over a 1.6-mile portion (between milepost BFH 0.5 and milepost BFH 2.1) of the 2.1-mile rail line proposed for abandonment in Allegheny County, PA. On July 12, 2002, the decision and notice was modified to provide a similar period for the Borough of Millvale (Millvale) to negotiate an interim trail use/rail banking agreement over the remaining 0.5-mile portion of the rail line (between milepost BFH 0.0 and milepost BFH 0.5). The 180-day negotiating period under the NITU is scheduled to expire on December 11, 2002, for Pittsburgh, and on January 8, 2003, for Millvale.

On November 27, 2002, CSXT filed a request to extend the negotiating period with both parties until July 8, 2003, in order to complete negotiations.¹ Where, as here, the carrier is willing to continue trail use negotiations, the NITU negotiating period may be extended.² Under the circumstances, an 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 extension request will be granted and the NITU negotiating period will be extended to July 8, 2003.

¹ Although the request with respect to both Pittsburgh and Millvale slightly exceeds the customary extension request of 180 days, the Board has granted such requests in the past. See, e.g., Southern Pacific Transportation Company—Abandonment Exemption—In Jackson, Victoria and Wharton Counties, TX, Docket No. AB-12 (Sub-No. 162X) (STB served May 29, 1996).

² See Rail Abandonment—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company—Abandonment Exemption in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and St. Louis Southwestern Railway Company—Abandonment in Smith and Cherokee Counties, TX, 9 I.C.C.2d 406 (1992).

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

It is ordered:

1. The request filed by CSXT to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to July 8, 2003.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary