

SERVICE DATE – MAY 3, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 701X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN VIGO COUNTY,
IND.

Decided: April 29, 2011

By decision and notice of interim trail use or abandonment (NITU) served on August 16, 2010, the Board granted to CSX Transportation, Inc. (CSXT) an exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10903 to abandon a 3.71-mile rail line on its Southern Region, Nashville Division, CE&D Subdivision, between milepost QST 1.42 (Park Street) and milepost QST 5.13 (Spring Hill), in Terre Haute, Vigo County, Ind.¹ Also, in response to separate NITU requests by the City of Terre Haute (City) and Vigo County (County),² and in light of CSXT's willingness to enter into trail use negotiations, the Board granted a 180-day negotiating period, which period expired on February 14, 2011.³

By letters filed on March 28 and 29, 2011, respectively, the City and the County seek an extension of the negotiating period for the two segments for an additional 180 days. In a response filed on March 30, 2011, CSXT states that it wishes to continue negotiations as it has not consummated the abandonment, has been unable to finalize negotiations with the City and the County, and desires to continue to negotiate for trail use.

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 the extensions, the Board retains jurisdiction and the NITU negotiating period

¹ By letter filed December 6, 2010, CSXT notified the Board that, on that date, it consummated the abandonment of the segment between mileposts QST 1.42 and QST 2.77 and reclassified that segment as excepted track.

² The City's request was for the segment between mileposts QST 2.77 and QST 3.98; the County's request involved the segment between mileposts QST 3.98 and QST 5.13.

³ Two environmental conditions were also imposed in the August 16 decision (Section 106 historic preservation condition and a self-executing condition). The Section 106 historic condition was removed by decision served November 2, 2010, and the self-executing condition remains in effect.

may be extended.⁴ 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 Vill. v. Mo. Pac. R.R., 95 F.3d 654, 659 (8th Cir. 1996). Accordingly, the NITU negotiating period will be extended for an additional 180 days, until August 13, 2011.

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

It is ordered:

1. The requests by the City and the County to extend the NITU negotiating period are granted.
2. The NITU negotiating period is extended until August 13, 2011.
3. This decision is effective on the date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

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