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SERVICE DATE – MAY 17, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 670X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN MIDDLESEX
COUNTY, MASS.

Decided: May 14, 2010

This decision extends the interim trail use negotiating period for the line of railroad authorized for abandonment in this proceeding and extends the date by which the railroad must exercise that authority.

By decision and notice of interim trail use or abandonment (NITU) served on October 25, 2006, the Board granted the petition for exemption filed by CSX Transportation, Inc. (CSXT) for abandonment of a 2.39-mile line known as the Saxonville Industrial Track, extending between milepost QBX 0.15 and the end of the line at milepost QBX 2.54, in Middlesex County, Mass. The exemption was subject to public use, environmental, and standard employee protective conditions, as well as a trail use condition authorizing a 180-day period for the Town of Natick, Mass. (Town), to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way involved in this proceeding. In a series of decisions issued from May 23, 2007, to October 29, 2009, the negotiation period was extended until May 7, 2010. The October 29, 2009 decision also extended the deadline for CSXT to file its notice of consummation until July 6, 2010.

By letter filed on May 6, 2010, the Town filed a request to extend the NITU negotiating period for an additional 180 days. The Town explains that, although it and CSXT have not reached an agreement regarding the NITU, the parties desire to continue negotiations. The Town notes that both parties have completed an appraisal, but given recent changes in property values, the Town has commissioned an update to its appraisal. By letter filed on May 7, 2010, CSXT states that it concurs with the Town's extension request. CSXT also requests an extension of the time to consummate the abandonment of the line to January 2, 2011.¹

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

¹ On May 7, 2010, CSXT also filed a letter to reflect the correct period of time it requests to consummate the abandonment and file the notice of consummation.

retains jurisdiction and 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., 95 F.3d 654, 659 (8th Cir. 1996). Accordingly, the NITU negotiating period will be extended until November 3, 2010, and the time for CSXT to consummate the abandonment and file the notice of consummation will be extended to January 2, 2011.

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

It is ordered:

1. The Town's request to extend the NITU negotiating period is granted.
2. CSXT's request to extend the time to consummate the abandonment and file the notice of consummation is granted.
3. The negotiating period under the NITU is extended to November 3, 2010.
4. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before January 2, 2011.
5. This decision is effective on its date of service.

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

² See Rail Aban.—Use of Rights-of-Way As Trails—Supp. Trails Act Proc., 4 I.C.C.2d 152, 157-58 (1987).