

28728
DO

SERVICE DATE - JANUARY 7, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 539X)

CSX TRANSPORTATION, INC.--ABANDONMENT EXEMPTION--
IN HARRISON COUNTY, WV

Decided: January 2, 1998

By decision and notice of interim trail use or abandonment (NITU) served on April 4, 1997, the Board imposed a 180-day period for the Harrison County Commission (HCC) to negotiate an interim trail use/rail banking agreement with CSX Transportation, Inc. (CSXT), for its 14.1-mile line of railroad between milepost 2.1 at Clarksburg and milepost 16.2 at McWhorter, in Harrison County, WV.¹ The initial 180-day negotiating period was scheduled to expire on October 2, 1997, but was extended through November 30, 1997, by decision served September 22, 1997.²

On December 9, 1997, HCC filed a request for an extension of the negotiation period until February 28, 1998. HCC states that negotiations between the parties (CSXT and HCC) are still ongoing, but that they were unable to reach an agreement during the previously granted negotiation period. By letter filed December 24, 1997, CSXT states that it is willing to continue negotiations with HCC.

Because CSXT is willing to continue trail use negotiations with HCC and an extension of the negotiation period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), the requested extension will be granted.³ The purpose of the Trails Act is to preserve rail corridors for possible reactivation of rail

¹ The notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments was served and published in the Federal Register on March 6, 1997 (62 FR 10308-09).

² The April 4 decision also imposed a 180-day public use condition requiring CSXT to leave the right-of-way intact, including bridges, trestles, culverts and tunnels and similar structures for a period of 180 days from the April 5, 1997 effective date. The 180-day period for the public use condition expired on October 2, 1997.

³ Where, as here, the carrier has not consummated the abandonment and is willing to continue trail use negotiations, the Board retains jurisdiction to extend the NITU negotiation period. See Rail Abandonment--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company--Abandonment 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, Docket No. AB-39 (Sub-No. 12) (ICC served Mar. 27, 1992).

STB Docket No. AB-55 (Sub-No. 539X)

service by permitting and encouraging their interim use as recreational trails. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990).

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

It is ordered:

1. The negotiating period under the NITU is extended to February 28, 1998.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

28728
DO

SERVICE DATE - JANUARY 7, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 539X)

CSX TRANSPORTATION, INC.--ABANDONMENT EXEMPTION--
IN HARRISON COUNTY, WV

Decided: January 2, 1998

By decision and notice of interim trail use or abandonment (NITU) served on April 4, 1997, the Board imposed a 180-day period for the Harrison County Commission (HCC) to negotiate an interim trail use/rail banking agreement with CSX Transportation, Inc. (CSXT), for its 14.1-mile line of railroad between milepost 2.1 at Clarksburg and milepost 16.2 at McWhorter, in Harrison County, WV.¹ The initial 180-day negotiating period was scheduled to expire on October 2, 1997, but was extended through November 30, 1997, by decision served September 22, 1997.²

On December 9, 1997, HCC filed a request for an extension of the negotiation period until February 28, 1998. HCC states that negotiations between the parties (CSXT and HCC) are still ongoing, but that they were unable to reach an agreement during the previously granted negotiation period. By letter filed December 24, 1997, CSXT states that it is willing to continue negotiations with HCC.

Because CSXT is willing to continue trail use negotiations with HCC and an extension of the negotiation period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), the requested extension will be granted.³ The purpose of the Trails Act is to preserve rail corridors for possible reactivation of rail

¹ The notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments was served and published in the Federal Register on March 6, 1997 (62 FR 10308-09).

² The April 4 decision also imposed a 180-day public use condition requiring CSXT to leave the right-of-way intact, including bridges, trestles, culverts and tunnels and similar structures for a period of 180 days from the April 5, 1997 effective date. The 180-day period for the public use condition expired on October 2, 1997.

³ Where, as here, the carrier has not consummated the abandonment and is willing to continue trail use negotiations, the Board retains jurisdiction to extend the NITU negotiation period. See Rail Abandonment--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company--Abandonment 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, Docket No. AB-39 (Sub-No. 12) (ICC served Mar. 27, 1992).

STB Docket No. AB-55 (Sub-No. 539X)

service by permitting and encouraging their interim use as recreational trails. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990).

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

It is ordered:

1. The negotiating period under the NITU is extended to February 28, 1998.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary