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SERVICE DATE - LATE RELEASE APRIL 5, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 592X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN CLARK
COUNTY, IN

Decided: April 5, 2002

On October 9, 2001, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for CSX Transportation, Inc. (CSXT), to negotiate an interim trail use/rail banking agreement with the City of Jeffersonville (City), for a 5.4-mile segment of its Midwest Region railroad line, known as the Louisville Division, Louisville Terminal/Hoosier Subdivision, extending between milepost B-1.3, near Watson, and milepost B-6.7, near Jeffersonville, in Clark County, IN. The negotiating period under the NITU is scheduled to expire on April 7, 2002. In a letter to the Board filed on March 26, 2002, CSXT requested an extension of the negotiating period until September 30, 2002, in order to complete trail negotiations with the City.

By letter filed on December 31, 2001, CSXT notified the Board that, on December 28, 2001, it consummated the abandonment of the line segment from milepost B-4.96 to milepost B-5.52. Therefore, this segment is no longer subject to the Board's jurisdiction and the Board's trail use procedures.

For the portions of the line CSXT has not abandoned and has indicated a willingness to continue to negotiate, the negotiating period may be extended, if appropriate. As to the segment between milepost B-1.3 and milepost B-4.96, an extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d).¹ Accordingly, for this segment, CSXT's extension request will be granted and the NITU negotiating period will be extended until September 30, 2002.

As to the portion of the line from milepost B-5.52 to milepost B-6.7, the predicate for interim trail use of rail lines is that the right-of-way be available—"rail banked"—for future active rail use. Such future use cannot be assured if the connections between the rail banked lines and the national rail system are withdrawn from the Board's jurisdiction. Because the railroad states that it has now consummated the abandonment of the segment of line between mileposts B-4.96 and B-5.52, it appears that the segment between mileposts B-5.52 and B-6.7 no longer qualifies for a NITU. That segment has been severed from the national rail system and it is not clear that active rail service could be restored over it. Accordingly, on this record, the extension sought by

¹ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987).

CSXT cannot be granted as it relates to this segment. CSXT and the City may, however, within 10 days of the service date of this decision, submit evidence explaining why the segment still qualifies for a NITU. Should the parties establish that the segment is in fact eligible for a NITU, a subsequent decision granting the requested extension will be issued. See Union Pacific Railroad Company–Abandonment Exemption–In McPherson, Ellsworth and Rice Counties, KS, STB Docket No. AB-33 (Sub-No. 158X) (STB served Mar. 29, 2002).

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

It is ordered:

1. CSXT's request to extend the NITU negotiating period is granted for the line segment between milepost B-1.3 and milepost B-4.96, and is denied for the line segment between milepost B-5.52 and B-6.7.
2. The negotiating period under the NITU is extended until September 30, 2002, for the line segment between milepost B-1.3 and milepost B-4.96.
3. CSXT and the City may, within 10 days from the service date of this decision, submit evidence explaining why the segment of line between milepost B-5.52 and milepost B-6.7 continues to qualify for a NITU.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary