

SERVICE DATE - JUNE 12, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 586X)

CSX TRANSPORTATION, INC.—ABANDONMENT  
EXEMPTION—IN McMINN COUNTY, TN

Decided: June 10, 2003

A decision and notice of interim trail use or abandonment (NITU) served on July 27, 2001 (July 2001 decision), as corrected that same day, authorized CSX Transportation, Inc. (CSXT), to abandon a .84-mile segment of a line of railroad known as the Athens & Tellico Branch,<sup>1</sup> extending from milepost OKW 333.40 to milepost OKW 334.24 in Athens, McMinn County, TN, subject to trail use, public use, and standard employee protective conditions. Under the NITU, the City of Athens (City) was authorized to negotiate an interim trail use/rail banking agreement with CSXT for the entire line.<sup>2</sup> The July 2001 decision also stated that, if consummation was not effected by CSXT's filing of a notice of consummation by July 27, 2002, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire. Under 49 CFR 1152.29(e)(2), however, a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings. CSXT filed such an extension request; and, by decision served on July 26, 2002, the due date for filing a notice of consummation for that portion of the line extending between milepost OKW 333.62 and milepost OKW 334.24 was extended until January 27, 2003.<sup>3</sup> Subsequently, in a decision served on January 27, 2003, the NITU negotiating period for that portion of the line extending between milepost OKW 333.62 and milepost OKW 334.24 was

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<sup>1</sup> The line is formally designated as Central Region, Appalachian Division, Athens & Tellico Branch, KD Subdivision.

<sup>2</sup> The July 2001 decision indicated that CSXT's willingness to negotiate with the City for interim trail use was conditioned on the failure of its negotiations to sell a majority of the rail line for use as an industry track for continued rail purposes.

<sup>3</sup> CSXT stated in its extension request that it intended to allow the abandonment authority granted for the line segment extending between milepost OKW 333.40 and milepost OKW 333.62 to expire.

extended until June 13, 2003, and the due date for filing a notice of consummation for that line segment was further extended until August 13, 2003.<sup>4</sup>

On May 15, 2003, CSXT filed a request to further extend the NITU negotiating period until December 12, 2003. Because of its ongoing negotiations with the City for interim trail use, CSXT also requests that the deadline to consummate the abandonment and to file its notice of consummation be further extended until February 12, 2004.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.<sup>5</sup> An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). CSXT also has shown good cause to further extend the time to consummate the abandonment and to file its notice of consummation. Accordingly, the NITU negotiating period for that portion of the line extending between milepost OKW 333.62 and milepost OKW 334.24 will be extended until December 12, 2003, and the abandonment consummation deadline for that line segment will be extended until February 12, 2004.

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

It is ordered:

1. CSXT's requests to extend the NITU negotiating period for that portion of the line extending between milepost OKW 333.62 and milepost OKW 334.24, and to extend the time to exercise the abandonment authority for that line segment are granted.
2. The negotiating period under the NITU is extended until December 12, 2003.
3. The authority to abandon must be exercised on or before February 12, 2004.

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<sup>4</sup> The requests to extend both the NITU negotiating period and the due date for filing a notice of consummation were based on the City's continued interest in negotiating for interim trail use after CSXT's negotiations to sell the line for continued rail purposes failed.

<sup>5</sup> See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

4. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary