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SERVICE DATE – DECEMBER 17, 2007

SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: December 14, 2007

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, running between milepost QBX 0.15 and the end of the line at milepost QBX 2.54, in Middlesex County, MA. 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, MA (Town), to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way involved in this proceeding. By decision served on May 23, 2007, the negotiating period was extended until November 19, 2007.

By motion filed on November 19, 2007, the Town requests a 180-day extension of the NITU negotiating period. The Town states that it is in the process of hiring an appraiser, and that it and CSXT desire to continue to negotiate. By letter filed on November 26, 2007, CSXT states that it concurs with the Town's extension request. CSXT also asks that the Board extend the consummation notice filing deadline to July 16, 2008.

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, the Board retains jurisdiction and the NITU negotiating period may be extended. 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 Village v. Missouri Pac. R.R. Co.*, 95 F.3d 654, 659 (8th Cir. 1996). Accordingly, the NITU negotiating period will be extended until May 17, 2008, and the deadline for CSXT's filing of a notice of consummation will be extended to July 16, 2008.

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 date by which it must file a notice of consummation is granted.
3. The negotiating period under the NITU is extended to May 17, 2008.
4. The authority to abandon must be exercised on or before July 16, 2008.
5. This decision is effective on its date of service.

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

Vernon A. Williams
Secretary