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SERVICE DATE – LATE RELEASE MAY 19, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 687X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–IN
FULTON AND CLAYTON COUNTIES, GA

Decided: May 15, 2009

On September 9, 2008, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the City of College Park, GA (City), to negotiate an interim trail use/rail banking agreement with CSX Transportation, Inc. (CSXT) for a 1.67-mile line of railroad on CSXT's Southern Region, Atlanta Division, Atlanta Terminal Subdivision, between Valuation Station 0+00 and the end of the line, Valuation Station 88+00, in Fulton and Clayton Counties, GA. The negotiating period under the NITU expired on March 12, 2009.

By letter filed on May 6, 2009, the City requests a 180-day extension of the NITU negotiating period. The City states that it has been unable to finalize negotiations with CSXT and desires to continue to negotiate with CSXT for interim trail use/rail banking for the line. In a response filed on May 8, 2009, CSXT states that it concurs with the City's request, and that it has not consummated the abandonment. CSXT requests the Board to grant the 180-day extension request, commencing from March 12, 2009. Also, CSXT requests an extension of the time to file its notice of consummation until November 7, 2009.

Even if a negotiating period expires, when a carrier consents to continuing negotiations and has not consummated abandonment of the line, the Board continues to have jurisdiction to grant an extension. 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), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended for 180 days, commencing from March 12, 2009, and the time to consummate the abandonment and file a notice of consummation will be extended until November 7, 2009.

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

It is ordered:

1. The request to extend the interim trail use negotiating period is granted.

2. The request to extend the time to consummate the abandonment and file a notice of consummation is granted.
3. The negotiating period under the NITU is extended to September 9, 2009.
4. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before November 7, 2009.
5. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary