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SERVICE DATE – FEBRUARY 5, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 591X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN CLARK AND FLOYD COUNTIES, IN

Decided: February 2, 2007

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 3.8-mile line of railroad between milepost B-50.5 near Clarksville and milepost B-54.3 near New Albany, in Clark and Floyd Counties, IN.¹ On August 7, 2001, a decision and notice of interim trail use or abandonment (NITU) was served reopening the proceeding and authorizing a 180-day period for the Civil Town of Clarksville, IN, the City of New Albany, IN, and the City of Jeffersonville, IN (collectively, Proponents) to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way involved in this proceeding.² At the request of CSXT, the negotiating period under the NITU was extended several times; the latest extension decision, granted by decision served July 27, 2006, extended the negotiation period until January 25, 2007. The July 27, 2006 decision also extended the deadline for CSXT to file its notice of consummation until March 26, 2007.

On January 29, 2007, CSXT filed a request to extend the NITU negotiation period until July 24, 2007. CSXT states that it has been unable to finalize negotiations with Proponents and that it desires to continue negotiations for interim trail use/rail banking with Proponents. Additionally, CSXT requests an extension of the consummation notice filing deadline until September 22, 2007.

Even if a negotiation 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, an 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 to July 24, 2007, and the consummation notice filing deadline will be extended to September 22, 2007. Given the time that has elapsed since abandonment was

¹ Notice of the exemption was served and published in the Federal Register on July 9, 2001 (66 FR 35826-27).

² The August 7, 2001 decision also imposed several environmental conditions.

authorized, the negotiation parties are urged to conclude their negotiations so that further extensions are not necessary.

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

It is ordered:

1. CSXT's request for an extension of the negotiating period and its request for an extension of time to exercise the abandonment authority are granted.
2. The negotiating period under the NITU is extended to July 24, 2007.
3. The authority to abandon must be exercised on or before September 22, 2007.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary