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SERVICE DATE - NOVEMBER 19, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 579X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–
IN PARKE AND VERMILLION COUNTIES, IN

Decided: November 18, 2002

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon an approximately 1.17-mile line of its railroad between milepost BD-191.41 at Montezuma and milepost BD-192.58 at Hillsdale in Parke and Vermillion Counties, IN. Notice of the exemption was served and published in the Federal Register on May 26, 2000 (65 FR 34249-50).¹

By petition filed June 7, 2000, the Indiana Trails Fund (ITF) filed a request for the issuance of a notice of interim trail use (NITU) for the entire line under the National Trails System Act. On June 23, 2000, however, Parke County Redevelopment Commission (PCRC) filed an offer of financial assistance (OFA) to acquire the line pursuant to a donation by CSXT. In a decision served June 28, 2000, PCRC was found to be financially responsible and the effective date of the decision authorizing abandonment was postponed to permit the OFA process to proceed. Because an OFA takes priority over a request for trail use, ITF's NITU request was held in abeyance pending completion of the OFA process by a decision served June 23, 2000. By decision served July 14, 2000, PCRC was authorized under 49 U.S.C. 10904 to acquire the line by donation and the exemption was dismissed, effective on the date the sale was consummated.

On March 9, 2001, PCRC and Montezuma Grain Company, LLP (MGC) filed a petition to: (1) reopen and vacate all decisions in this proceeding; and (2) reopen the decision served August 19, 1994, in a related proceeding, CSX Transportation, Inc.–Abandonment–Between Bloomingdale and Montezuma, in Parke County, IN, Docket No. AB-55 (Sub-No. 486), and to partially vacate the abandonment certificate issued therein. On March 9, 2001, PCRC and MGC also filed a related formal complaint against CSXT for alleged breach of its common carrier obligation. CSXT replied to the petition and filed a motion to dismiss the complaint on April 11, 2001.

¹ In the May 26 notice, the Board stated that, if consummation had not been effected by CSXT's filing of a notice of consummation by May 26, 2001, the authority to abandon would automatically expire.

On May 22, 2001, CSXT filed a request to extend the deadline to consummate the abandonment authorized by exemption in this proceeding and to file its notice of consummation until 60 days after the Board has reached a final decision on the petition to reopen and the complaint. CSXT's request was granted by decision served May 29, 2001.

By decision served September 13, 2002: (1) the request to reopen and partially vacate the abandonment authority in ICC Docket No. AB-55 (Sub-No. 486) was denied; (2) the request to reopen STB Docket No. AB-55 (Sub-No. 579X) and to vacate all decisions therein was denied; (3) the motion to dismiss the complaint was granted; and (4) the parties were instructed to notify the Board whether they intended to proceed under the OFA process. PCRC and MGC informed the Board that they did not intend to proceed under the OFA process by letter filed on October 18, 2002.

On November 8, 2002, CSXT filed a second request to extend the time to consummate the abandonment and to file its notice of consummation until January 13, 2003. CSXT states that, because the parties have decided not to proceed under the OFA process, it now requests additional time to consummate so that it can contact ITF to see whether there is still interest in the possibility of rail banking the line.

CSXT has shown good cause to extend the time to consummate the abandonment and file a notice of consummation in this proceeding. Accordingly, the request will be granted.

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 for extension of time until January 13, 2003, to exercise the abandonment authority for the above-described line is granted.
2. The authority to abandon is scheduled to expire on January 13, 2003.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary