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SERVICE DATE - JULY 24, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 603X)

CSX TRANSPORTATION, INC.–ABANDONMENT
EXEMPTION–IN WEBSTER COUNTY, WV

Decided: July 23, 2003

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon approximately 10.5 miles of railroad between milepost BUG-0.0 at Cowen and milepost BUG 10.5 at Bolair, in Webster County, WV.¹ Notice of the exemption was served and published in the Federal Register on February 11, 2002 (67 FR 6320-21). The notice of exemption stated that, if consummation had not been effected by CSXT's filing of a notice of consummation by February 11, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon would automatically expire. On July 30, 2002, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for Webster County Chamber of Commerce (Webster County) to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way involved in this proceeding. The negotiation period was scheduled to expire on January 26, 2003, but was extended to July 25, 2003, by decision served January 23, 2003.

In a letter filed on July 14, 2003, CSXT requests an extension of the NITU negotiating period until January 23, 2004. CSXT states that it and Webster County have been unable to finalize negotiations. Additionally, CSXT requests an extension of the consummation notice filing deadline until March 23, 2004.

Because an extension of the consummation notice filing deadline and of the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d), and the rail carrier has indicated its willingness to continue negotiations by requesting an extension, the requested extensions will be granted. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990).

¹ By decision served on March 12, 2002, the exemption was made subject to environmental and historic preservation conditions. The historic preservation condition was removed by decision served April 9, 2002. The April 9 decision noted that the other environmental conditions imposed in the March 12 decision remained.

Accordingly, the NITU negotiation period will be extended to January 23, 2004,² and the consummation notice filing deadline will be extended to March 23, 2004

This decision does 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 negotiation period and its request for an extension of time to exercise abandonment authority are granted.
2. The negotiating period under the NITU is extended to January 23, 2004.
3. The authority to abandon must be exercised on or before March 23, 2004.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

² Although the request slightly exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., Southern Pacific Transportation Company—Abandonment Exemption—In Jackson, Victoria and Wharton Counties, TX, STB Docket No. AB-12 (Sub-No. 162X) (STB served May 29, 1996).