

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 696X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN LUCAS
COUNTY, OHIO

Decided: January 27, 2011

In this decision, an extension is granted for negotiating a trail use/rail banking agreement. CSX Transportation, Inc. (CSXT) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 4.15 miles of rail line on its Northern Region, Chicago Division, Toledo Terminal Subdivision, between Temperance (milepost CTT 5.0) and Vulcan (milepost CTT 9.15), in Lucas County, Ohio. Notice of the exemption was served on February 11, 2010, and published in the Federal Register on February 17, 2010 (75 Fed. Reg. 7,151-52). The exemption became effective on March 13, 2010.

By decision and notice of interim trail use or abandonment (NITU) served on March 12, 2010 (March 12 decision), the proceeding was reopened and a 180-day period was authorized for Metroparks of the Toledo Area (Metroparks) to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way in this proceeding.¹ The negotiating period under the NITU was extended until March 9, 2011, by decision served on September 3, 2010.

By letter filed on January 13, 2011, Metroparks requests an extension of the NITU negotiating period until June 30, 2011. Metroparks states that it and CSXT have reached an agreement in principal and that the parties diligently are working to finalize the agreement but may need additional time beyond the current negotiating deadline. In a response filed on January 18, 2011, CSXT agrees to Metroparks' request to extend the NITU negotiating period until June 30, 2011.²

¹ The March 12 decision also imposed a 180-day public use condition, which expired on September 9, 2010, and by statute may not be extended. In addition, an environmental condition was imposed (requiring consultation with the National Geodetic Survey prior to salvage), which remains in effect but is self-executing and is not a barrier to consummation of CSXT's abandonment authority.

² CSXT notes that, under 49 C.F.R. § 1152.29(e)(2), the requested extension of the NITU negotiating period creates a regulatory barrier to consummation of the abandonment. For that reason, if the NITU negotiating period expires without the parties having reached an

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Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension 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).³ Accordingly, the NITU negotiating period will be extended until June 30, 2011.

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

It is ordered:

1. Metroparks' request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to June 30, 2011.
3. This decision is effective on its service date.

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

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agreement, CSXT's notice of consummation will be due not later than 60 days thereafter. See 49 C.F.R. § 1152.29(e)(2).

³ See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).