

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 646X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–IN
PINELLAS COUNTY, FL

Decided: December 16, 2004

By decision and notice of interim trail use or abandonment (NITU) served on June 18, 2004, a 180-day period was authorized for CSX Transportation, Inc. (CSXT), to negotiate an interim trail use/rail banking agreement with Pinellas County (the County) for a 1.85-mile line of railroad in CSXT's Southern Region, Jacksonville Division, Clearwater Subdivision, extending from milepost SY 893.80 to milepost SY 895.65, in St. Petersburg, Pinellas County, FL. The negotiating period under the NITU expired on December 15, 2004.

On December 14, 2004, the County filed a request for an additional 180-day extension of the negotiating period, stating that it is currently in the process of finishing all of the acquisition due diligence requirements and negotiations, but additional time is needed to conclude the acquisition of the property. Concurrently, CSXT filed its response stating that it has not consummated the abandonment, has not been able to finalize negotiations with the County, and wants to continue to negotiate for interim trail use/rail banking with the County. CSXT requests that the Board grant a 180-day extension until June 13, 2005, to negotiate trail use with the County. Additionally, CSXT requests an extension of the consummation notice filing deadline until August 12, 2005.¹

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. 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). Extension of the consummation deadline is also justified. Accordingly, the NITU negotiating

¹ Under 49 CFR 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings.

period will be extended to June 13, 2005, and the consummation notice filing deadline will be extended to August 12, 2005.

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

It is ordered:

1. The County's and CSXT's requests to extend the NITU negotiating period are granted.
2. CSXT's request for an extension of time to exercise abandonment authority is granted.
3. The negotiating period under the NITU is extended to June 13, 2005.
4. The authority to abandon must be exercised on or before August 12, 2005.
5. This decision is effective on its service date.

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

Vernon A. Williams
Secretary