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SERVICE DATE – JULY 26, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 568X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN FRANKLIN
COUNTY, PA

Decided: July 25, 2006

By decision and notice of interim trail use or abandonment (NITU) served on March 9, 1999 (March 1999 decision), the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by CSX Transportation, Inc. (CSXT), of a 1.9-mile portion of its line of railroad known as the Baltimore Service Lane, Lurgan Subdivision (the line), extending between milepost BAV-20.5 at 4th Street and milepost BAV-22.4 at Commerce Street in Chambersburg, Franklin County, PA, subject to public use, trail use, and standard employee protective conditions.

The March 1999 decision authorized the Borough of Chambersburg (Borough) to negotiate an interim trail use/rail banking agreement with CSXT for the portion of the line between Main Street at approximately milepost BAV-20.8 and Commerce Street at approximately milepost BAV-22.4, a distance of 1.6 miles. CSXT's requests for extensions of time to exercise abandonment authority (for the entire line, not just for the portion of the line subject to interim trail use negotiations) were granted by a number of decisions, with service dates ranging from March 22, 2000, to January 24, 2006. Its requests to extend the NITU negotiating period were also granted by many of those same decisions. Pursuant to the decision served on January 24, 2006, the NITU negotiating period expired on July 24, 2006, and the abandonment authority is currently scheduled to expire on September 22, 2006.

On July 24, 2006, CSXT filed a request: to extend the NITU negotiating period by 180 days (to January 20, 2007), and to extend the time to consummate the abandonment to March 21, 2007. CSXT states that it has been unable to finalize negotiations with the Borough, desires to continue negotiations with the Borough for interim trail use/rail banking, and has not consummated the abandonment.

Where, as here, the carrier has not consummated abandonment at the end of the previously imposed negotiating period and has indicated its willingness to continue negotiations by requesting an extension, 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). An extension of the 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).¹ CSXT also has shown good cause to extend the time to consummate the abandonment and for filing a notice of consummation in this proceeding. Therefore, the extension requests 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 an extension of time to exercise the abandonment authority and its request to extend the NITU negotiating period are granted.
2. The negotiating period under the NITU is extended until January 20, 2007.
3. The authority to abandon must be exercised on or before March 21, 2007.
4. This decision is effective on its date of service.

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

Vernon A. Williams
Secretary

¹ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).