

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 684X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN SHELBY
COUNTY, TENN.

Decided: June 24, 2011

CSX Transportation, Inc. (CSXT), filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 13.34-mile rail line on CSXT's Southern Region, Nashville Division, Memphis Terminal Subdivision, between milepost ONI 210.66 near Cordova and milepost ONI 224 in Memphis, known as the Cordova Branch, in Shelby County, Tenn. (the Line). Notice of the exemption was served and published in the Federal Register on September 27, 2007 (72 Fed. Reg. 54,977-78). The exemption became effective on October 27, 2007.

By decision and notice of interim trail use or abandonment (NITU) served on October 26, 2007 (October 2007 decision), the proceeding was reopened and a 180-day period was authorized for the Memphis Community Connector (MCC) to negotiate an interim trail use/rail banking agreement with CSXT for the Line. By decision served on April 30, 2008, the NITU was modified to include Shelby County, Tenn. (Shelby County), as an additional party to MCC's trail use negotiations under the NITU. At the request of MCC, Shelby County, and CSXT (the parties), by decision served on August 21, 2008, separate NITU negotiating periods were established for 2 segments of the Line: (1) the segment between milepost ONI 224 and milepost ONI 216.92 (Memphis Segment), and (2) the segment between milepost ONI 210.66 and milepost ONI 216.92 (Cordova Segment). By letter filed on November 30, 2009, CSXT informed the Board that the parties had entered into an agreement for transfer of the Memphis Segment and had closed that transaction. The NITU negotiating period for the Cordova Segment was extended several times, most recently (by decision served on July 23, 2010) until June 30, 2011.

By letter filed on June 9, 2011, MCC and Shelby County request an extension of the NITU negotiating period for the Cordova Segment until June 30, 2012. They state that, due to economic conditions and Shelby County's focus on developing a trail on the Memphis Segment, negotiations for the Cordova Segment have progressed slowly. They indicate, however, that they desire to renew their negotiations for the Cordova Segment and that, in light of the time that had been needed to negotiate the sale and purchase of the Memphis Segment and the time needed to secure the requisite local government approvals, an extension until June 30, 2012 is requested to avoid the need for repeated extension requests. In a letter filed on June 22, 2011, CSXT states that it concurs with the request to extend the NITU negotiating period until June 30, 2012.

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).¹ Accordingly, the NITU negotiating period will be extended until June 30, 2012.²

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

It is ordered:

1. MCC's and Shelby County's request to extend the NITU negotiating period is granted.
2. The NITU negotiating period for the Cordova Segment is extended until June 30, 2012.
3. This decision is effective on its service date.

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

¹ See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

² An extension until June 30, 2012, provides a negotiating period that is longer than 180 days, but the parties concluded the purchase and sale of the Memphis Segment and wish to continue negotiations for the Cordova Segment. Under the circumstances here, the longer extension is appropriate.