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SERVICE DATE - SEPTEMBER 23, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 592X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–IN CLARK COUNTY, IN

Decided: September 16, 2002

On October 9, 2001, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for CSX Transportation, Inc. (CSXT), to negotiate an interim trail use/rail banking agreement with the City of Jeffersonville (City), for a 5.4-mile segment of its Midwest Region railroad line, known as the Louisville Division, Louisville Terminal/Hoosier Subdivision, extending between milepost B-1.3, near Watson, and milepost B-6.7, near Jeffersonville, in Clark County, IN. The negotiating period under the NITU was scheduled to expire on April 7, 2002.

In a letter filed on March 26, 2002, CSXT requested an extension of the negotiating period until September 30, 2002. The extension request was granted for the line segment between milepost B-1.3 and milepost B-4.96 in a decision served on April 5, 2002. Upon further information provided by the City, an extension of the negotiating period was also granted for the line segment between milepost B-5.52 and milepost B-6.7, in a decision served on April 30, 2002.¹

¹ In a letter filed on April 15, 2002, the City informed the Board that, although severed from the CSXT rail system by CSXT's December 28, 2001 consummation of the abandonment of the line segment between mileposts B-4.96 and B-5.52, the line segment between mileposts B-5.52 and B-6.7 remained connected to the national rail system. Thus, as stated in the April 30, 2002 decision, that segment remained under Board jurisdiction and appeared to still qualify for a NITU.

By letter filed on August 30, 2002, CSXT requests an extension of the negotiating period until March 31, 2003,² in order to complete trail use negotiations with the City.³ For the portions of the line that CSXT has not abandoned and for which it has indicated a willingness to continue to negotiate trail use, the negotiating period may be extended, if appropriate. 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).⁴ Accordingly, CSXT's extension request will be granted and the NITU negotiating period will be extended until March 31, 2003.⁵

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 to extend the NITU negotiating period is granted for the line segments between mileposts B-1.3 and B-4.96 and between mileposts B-5.52 and B-6.7.
2. The negotiating period under the NITU is extended until March 31, 2003.

² Because the NITU is scheduled to expire on September 30, 2002, a 180-day extension would run until March 29, 2003.

³ CSXT also states that it has been negotiating with the City for the issuance of a public use condition. The statutory 180-day public use condition imposed in the October 9, 2001 decision has expired and may not be extended. See 49 U.S.C. 10905. Of course, the parties may negotiate a sale for public use in the absence of a public use condition.

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

⁵ Although the request slightly exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., Union Pacific Railroad Company—Abandonment Exemption—in Lancaster County, NE, STB Docket No. AB-33 (Sub-No. 181X) (STB served June 14, 2002).

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary