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SERVICE DATE – OCTOBER 18, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 613X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—  
IN JEFFERSON COUNTY, AL

Decided: October 16, 2006

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 16.47-mile rail line extending from milepost ONC 384.00 at Black Creek to milepost ONJ 400.47 at West Jefferson, in Jefferson County, AL. Notice of the exemption was served and published in the Federal Register on September 22, 2003 (68 FR 55085).

By decision and notice of interim trail use or abandonment (NITU) served October 21, 2003,<sup>1</sup> the proceeding was reopened and a 180-day period was authorized for the Jefferson County Commission (County) to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way involved in this proceeding pursuant to the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). The trail use negotiation period under the NITU was scheduled to expire on April 19, 2004, but was extended to October 8, 2006, by decisions served April 19, 2004, October 22, 2004, April 12, 2005, September 30, 2005, and April 20, 2006.

On October 4, 2006, the County submitted a request for an additional 180-day extension of the negotiating period. The County states that it and CSXT are continuing to work diligently to reach an agreement, but do not anticipate being able to complete the negotiations by October 8, 2006, and they want to continue trail use negotiations. By letter dated October 6, 2006, CSXT concurred in the request to extend the negotiating period.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and has indicated its willingness to continue negotiations by agreeing to an extension, the Board retains jurisdiction and the NITU negotiating period may

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<sup>1</sup> The October 21, 2003 decision also imposed an environmental condition that required CSXT to provide the National Geodetic Survey with 90 days' notice prior to any salvage activities in order to plan the relocation of three geodetic station markers that may be affected by the abandonment.

be extended.<sup>2</sup> 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). Accordingly, the NITU negotiating period will be extended from October 8, 2006, to April 6, 2007.

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 request to extend the negotiation period is granted.
2. The negotiating period under the NITU is extended to April 6, 2007.
3. This decision is effective on its date of service.

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

Vernon A. Williams  
Secretary

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