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SERVICE DATE - JULY 9, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 612X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–
IN GREENVILLE, SC

Decided: July 8, 2004

By decision and notice of interim trail use or abandonment (NITU) served on July 15, 2002, a 180-day period was authorized for the City of Greenville (the City) to negotiate an interim trail use/rail banking agreement with CSX Transportation, Inc. (CSXT) for approximately 1.31 miles of rail line between Valuation Station 47+50 and Valuation Station 115+11.5 in Greenville, Greenville County, SC. The negotiating period under the NITU was scheduled to expire on January 11, 2003, but was subsequently extended by decisions served on December 20, 2002, July 2, 2003, and December 30, 2003. The latest extension expired on July 4, 2004.¹

By letter filed on July 1, 2004, the City requests an extension of the negotiating period for an additional 180 days. The City indicates that it is progressing with its environmental assessment and needs additional time to continue negotiations with CSXT. By letter filed on July 6, 2004, CSXT states that it agrees with the request to extend the trail use negotiating period.

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, an 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). Accordingly, the NITU negotiating period will be extended for an additional 180 days from July 4, 2004.

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

¹ The July 15 decision also imposed a 180-day public use condition that expired on December 8, 2002.

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended until December 31, 2004.
3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary