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SERVICE DATE—MARCH 27, 2023

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 55 (Sub-No. 793X)

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

Decided: March 24, 2023

CSX Transportation, Inc. (CSXT) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon an approximately 0.85-mile rail line on the River Branch, Baltimore Division, P&W Subdivision between Val. Sta. 40+75 and the end of the line at Val. Sta. 85+76, in Pittsburgh, Allegheny County, Pa. (the Line).¹ Notice of the exemption was served and published in the Federal Register on July 11, 2019 (84 Fed. Reg. 33,115).

By decision and notice of interim trail use or abandonment (NITU) served on August 9, 2019, this proceeding was reopened and a 180-day period was authorized for the City of Pittsburgh (the City) to negotiate an interim trail use/rail banking agreement with CSXT for the Line pursuant to the National Trails System Act (Trails Act), 16 U.S.C. § 1247(d).² The negotiating period under that NITU ultimately was extended to February 5, 2022.

By decision served on March 10, 2022, the City's request for a further extension of its NITU negotiating period was denied and its NITU vacated, and a replacement NITU was issued to Georgetown and High Line Railway Company, LLC (GHL), allowing GHL to negotiate with CSXT for trail use until March 10, 2023.

On March 13, 2023, GHL filed a letter requesting an extension of the NITU negotiating period until August 9, 2023, stating that a final agreement has not yet been reached. On March 23, 2023, CSXT replied that it consents to the requested extension.

GHL's late-filed request for an extension of the NITU negotiating period until August 9, 2023, will be granted. Where, as here, the carrier has not consummated the abandonment and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. See Rail Abans.—Use of Rts.-of-Way as Trails—Supplemental Trails

¹ In the same jointly filed notice, Allegheny Valley Railroad Company sought to discontinue service over the Line. Allegheny Valley R.R.—Discontinuance of Serv. Exemption—in Allegheny Cnty., Pa., AB 1233 (Sub-No. 1X).

² The August 9, 2019 decision also imposed a public use condition that expired on February 6, 2020.

Act Procs., 4 I.C.C.2d 152, 157-58 (1987); see also Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Vill. v. Mo. Pac. R.R., 95 F.3d 654, 659 (8th Cir. 1996). Because the NITU was issued in 2019, it qualifies for the extension without a showing of extraordinary circumstances. However, any further extension will require the showing of extraordinary circumstances, under the rules adopted in Limiting Extensions of Trail Use Negotiating Periods, EP 749 (Sub-No. 1) et al. (STB served Dec. 4, 2019).

It is ordered:

1. GHL's request to extend the NITU negotiating period is granted; the negotiating period is extended until August 9, 2023.
2. This decision is effective on its service date.

By the Board, Mai T. Dinh, Director, Office of Proceedings.