

LAW OFFICES OF
LOUIS E. GITOMER, LLC

LOUIS E. GITOMER
Lou@lgraillaw.com

600 BALTIMORE AVENUE, SUITE 301
TOWSON, MARYLAND 21204-4022
(410) 296-2250 • (202) 466-6532
FAX (410) 332-0885

MELANIE B. YASBIN
Melanie@lgraillaw.com
410-296-2205

June 21, 2018

245981

Ms. Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings
June 21, 2018
Part of
Public Record

Re: **Docket No. AB-55 (Sub-No. 779X), CSX Transportation, Inc.—Abandonment
Exemption—in Trumbull County, OH**

Dear Ms. Brown,

CSX Transportation, Inc. (“CSXT”) respectfully requests the Surface Transportation Board (the “Board”) deny the request filed on June 19, 2018 by the Mahoning Valley Economic Development Corporation (“MVEDC”) for a “six-month extension of the deadlines associated with the abandonment in Docket No. AB 55 (Sub-No. 779X) due to our interest in this CSX right of way for possible use and economic development efforts because we only recently became aware of this abandonment filing. We need time to organize a potential plan of action.” MVEDC is evasive in when it “became aware,” but it is beyond dispute that public notice of the abandonment was provided in April and May 2018, as described in the following paragraph. MVEDC has not provided justification for the extension and CSXT opposes the extension request.

CSXT had a notice of the proposed abandonment published on May 7, 2018 in the Vindicator. Prior to that, on April 20, 2018, CSXT served a copy of its Combined Environmental and Historic Report on the parties required under 49 CFR 1105.7(b) and on April 27, 2018 served notice of the proposed abandonment on the parties required under 49 CFR 1152.50(d)(1). The Notice of Exemption was filed with the Board on May 10, 2018. On May 30, 2018, the Board published a notice in the Federal Register (83 Fed Reg. 24837) and served a Notice of Exemption, which provided that petitions to stay were due on June 11, 2018 and petitions to reopen were due on June 19, 2018.

If the Board considers MVEDC’s filing as a request for an extension of time, it is late pursuant to 49 CFR 1104.7(b), which requires extensions to be filed “not less than 10 days before the due date.” No good cause was given for the late filing of the extension request. Moreover, by the time the extension request was filed two of the deadlines had already passed.

If the Board considers MVEDC’s filing a stay request and it had been timely, MVEDC “fails in its letter to mention, much less satisfy, any of the standards that a petitioner must meet in order for a stay to be granted. See, e.g., *Washington Metro Area Transit Comm. v. Holiday*

Ms. Cynthia T. Brown
June 21, 2018
Page 2

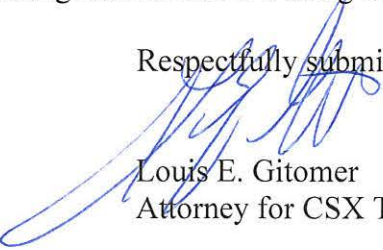
Tours, Inc., 559 F. 2d 841, 843 (D.C. Cir. 1977).”¹ CSXT urges the denial of a stay here on the basis of the denial in *BNSF*.

If the Board considers MVEDC’s filing a petition to reopen, CSXT requests that it be denied because MVEDC has failed to address, much less “demonstrate material error, new evidence, or substantially changed circumstances that would lead the Board to materially alter its prior action.”²

By letter filed on June 13, 2018, CSXT agreed to negotiate interim trail use/rail banking with Trumbull County, OH. If the railroad line is converted to trail use, the line will be subject to “future reconstruction and reactivation ... for rail service.” 49 CFR 1152.29(a)(3). MVEDC will be able to takes it’s “time to organize a potential plan of action” while the line is subject to trail use. It does not require a delay of the abandonment process.

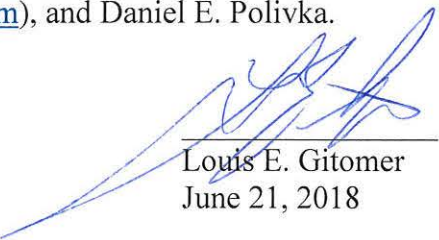
MVEDC has not justified an extension of time, a stay, or a reopening. Therefore, CSXT respectfully requests that the relief sought in MVEDC’s filing be denied.

Respectfully submitted,



Louis E. Gitomer
Attorney for CSX Transportation, Inc.

I certify that I have served electronically or by first class mail the following representatives of the parties of record: Michael R. Conway (mike@mvedc.com), A, Joseph Fritz, Donald P. Graham (dgraham@dmkcg.com), and Daniel E. Polivka.



Louis E. Gitomer
June 21, 2018

¹ *BNSF Railway Company-Abandonment Exemption-in Rolette and Towner Counties, N.D.*, Docket No. AB 6 (Sub-No. 473X) (served April 26, 2011) (“*BNSF*”).

² *Nebraska, Kansas & Colorado Railway, L.L.C.—Abandonment Exemption—In Decatur, Norton, and Phillips Counties, Kan., and Harlan County, Neb.*, Docket No. AB1032X, slip op. at 4 (served May 24, 2018).