

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 691X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN WORCESTER COUNTY, MASS.

Decided: December 12, 2011

This decision grants an extension of time to negotiate a trail use/rail banking agreement.

CSX Transportation, Inc. (CSXT), filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 4.2-mile line of railroad between milepost QBU 0.0 (Fitchburg) and milepost QBU 4.2 (Leominster), in Worcester County, Mass. (the Line). Notice of the exemption was served and published in the Federal Register on November 20, 2008 (73 Fed. Reg. 70,405-06). Following a 1-year extension of the abandonment consummation deadline, the Georgetown and High Line Railway Company, LLC (GHLR), filed on November 19, 2010, a request for issuance of a notice of interim trail use (NITU) for the line under section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d). By decision and notice of interim trail use or abandonment (NITU) served on December 27, 2010, the proceeding was reopened and a one-year period (to December 27, 2011) was authorized for GHLR to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way.

On November 3, 2011, GHLR filed a request to extend the NITU negotiating period for an additional year, until December 27, 2012.¹ GHLR states that the parties have engaged in negotiations and have made progress but have not reached a final agreement. In a response filed on November 4, 2011, CSXT states that it agrees to the extension request.

Where, as here, the carrier is willing to continue trail use negotiations, the NITU negotiating period may be extended.² An extension of the NITU negotiating period will promote

¹ Although the request exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., S. Pac. Transp. Co.—Aban. Exemption—Wendel-Alturas Line in Modoc & Lassen Counties, Cal., AB 12 (Sub-No. 184X) (STB served Sept. 1, 2005).

² See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

the establishment of trail use and rail banking consistent with the Trails Act. Accordingly, the NITU negotiating period will be extended for an additional year, to December 27, 2012.³

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

It is ordered:

1. GHLR's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended until December 27, 2012.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

³ If a legal or regulatory barrier to consummation exists at the end of time period for consummation, the railroad is required to file its notice of consummation within 60 days after removal or expiration of that legal or regulatory barrier. 49 C.F.R. § 1152.29(e)(2). Because extension of the NITU negotiating period is such a barrier, CSXT's deadline for filing its notice of consummation for the line will be February 25, 2013, if trail use negotiations are unsuccessful.