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SERVICE DATE – DECEMBER 9, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 565 (Sub-No. 17X)

NEW YORK CENTRAL LINES, LLC—ABANDONMENT EXEMPTION—IN DUTCHESS COUNTY, N.Y.

Decided: December 8, 2010

By decision and notice of interim trail use or abandonment (NITU) served on October 15, 2004 (October 2004 decision), the Board, under 49 U.S.C. § 10502, exempted from the prior approval requirements of 49 U.S.C. § 10903 the discontinuance of service by New York and Eastern Railway, LLC, and CSX Transportation, Inc. (CSXT),<sup>1</sup> and the abandonment by New York Central Lines, LLC (NYC), of approximately 4.7 miles of railroad line between milepost QCO 0.0 and milepost QCO 3.2 and between milepost QCK 29.5 and milepost QCK 31.0, in the City and Town of Poughkeepsie, Dutchess County, N.Y. The October 2004 decision also authorized a 180-day period for Dutchess County to negotiate an interim trail use/rail banking agreement with NYC for the right-of-way (ROW) (October 2004 NITU), and imposed several environmental conditions, which remain in effect.<sup>2</sup> The negotiating period under the October 2004 NITU was extended several times.

By decisions served on October 2, 2009, and on April 5, 2010, the NITU negotiating period for the approximately 4.2-mile segment of the ROW between milepost QCO 0.0 and milepost QCO 3.2, and between milepost QCK 30.0 and milepost QCK 31.0 (4.2-mile segment), was extended, with the latest extension until September 14, 2010. Also, the deadline for CSXT,

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<sup>1</sup> The October 2004 decision embraced Docket No. AB 873X, New York & Eastern Railway, LLC—Discontinuance Exemption—in Dutchess County, N.Y., and Docket No. AB 55 (Sub-No. 652X), CSX Transportation, Inc.—Discontinuance Exemption—in Dutchess County, N.Y.

<sup>2</sup> By decision and NITU served on August 26, 2009, a second NITU was issued for Poughkeepsie-Highland Bridge Co., Inc., d/b/a Walkway Over the Hudson (Walkway) to negotiate an interim trail use/rail banking agreement with CSXT for a 0.5-mile portion of the 4.7-mile ROW between milepost QCK 29.5 and milepost QCK 30.0. By letter filed on September 10, 2009, CSXT stated that Walkway and CSXT had entered into a Purchase and Sale Agreement for the 0.5-mile portion to be transferred to Walkway.

as successor by merger to NYC,<sup>3</sup> to file a notice of consummation of the abandonment was extended, with the latest extension until November 13, 2010.

By letter filed on November 15, 2010, CSXT requests a 5-month extension of the time to consummate the abandonment for the 4.2-mile segment.<sup>4</sup> Despite the expiration of the NITU negotiating period and its request to extend the notice of consummation deadline, CSXT states that it still hopes to reach a trail use agreement on the 4.2-mile segment or to consummate the abandonment. CSXT states that, in consummating the abandonment, it typically hires a contractor to remove the track and material from the line. CSXT indicates that it would not be able to finalize negotiations with a contractor for several weeks and, by that time, CSXT notes that the weather in upstate New York will make it difficult to consummate the abandonment.

Under 49 C.F.R. § 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings. CSXT has shown good cause to extend the time to consummate the abandonment and to file a notice of consummation in this proceeding. The extension request will therefore be granted.

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

It is ordered:

1. CSXT's request for an extension of time to consummate the abandonment is granted.
2. The authority to abandon the 4.2-mile segment must be exercised, and the notice of consummation must be filed, on or before April 13, 2011.
3. This decision is effective on its service date.

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

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<sup>3</sup> See CSX Corp.—Control & Operating Leases/Agreements—Conrail Inc., FD 33388 (Sub-No. 94) (STB served Nov. 7, 2003) (authorizing consolidation of NYC within CSXT).

<sup>4</sup> CSXT states that, because the consummation deadline of November 13, 2010, was a Saturday, the actual date for consummation was November 15, 2010, the date on which CSXT filed its extension request. CSXT is reminded that such requests should be filed in advance of the consummation deadline. 49 C.F.R. § 1152.29(e)(2).