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SERVICE DATE – MARCH 5, 2010

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 2X)

NEW YORK CENTRAL LINES, LLC–ABANDONMENT
EXEMPTION–IN MIDDLESEX COUNTY, MA

Decided: March 4, 2010

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) (collectively, applicants) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service for NYC to abandon and CSXT to discontinue service over approximately 4.17 miles of railroad between milepost QBH-2.60 near Sherborn and milepost QBH-6.77 near Holliston, in Middlesex County, MA. On August 31, 2001, a decision and notice of interim trail use or abandonment (NITU) was served, reopening the proceeding and authorizing a 180-day period for the Town of Sherborn (Sherborn) and the Town of Holliston (Holliston) to negotiate an interim trail use/rail banking agreement with applicants for the right-of-way in this proceeding. At the request of applicants, the negotiation period under the NITU was extended several times; the latest extension, served on March 20, 2009, extended the negotiation period until February 23, 2010. The March 20, 2009 decision also extended the deadline for CSXT to file its notice of consummation until April 24, 2010.

By letter filed on December 24, 2009, Sherborn and Holliston filed a request to extend the negotiation period under the NITU for 5 years to allow completion of the negotiating process among the parties. On February 18, 2010, CSXT, as successor by merger to NYC, filed its response, stating that it is willing to agree to a final 180-day extension with the hope that CSXT, Sherborn, and Holliston can conclude negotiations for trail use within the NITU period, as extended. Additionally, CSXT requests an extension of the consummation notice filing deadline until October 21, 2010.¹

Because CSXT is agreeable to a 180-day extension, an extension will be granted 180 days from February 23, 2010.² Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. Under the circumstances, an extension of the negotiation 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). An extension of

¹ Under 49 CFR 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.

² CSXT did not consent to the 5 year extension proposed by Sherborn and Holliston.

the negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247 (d).³ Accordingly, the NITU negotiating period will be extended for 180 days to August 22, 2010, and the deadline for CSXT's filing of a notice of consummation will be extended to October 21, 2010. Given the time that has elapsed since the abandonment was authorized, the parties again are urged to conclude their negotiations so that further extensions are not necessary.

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

It is ordered:

1. The negotiating period under the NITU is extended to August 22, 2010.
2. The request of Sherborn and Holliston to extend the NITU for 5 years is denied.
3. The authority to abandon must be exercised on or before October 21, 2010.
4. This decision is effective on its service date.

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

³ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).