

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 7X)

NEW YORK CENTRAL LINES, LLC—ABANDONMENT EXEMPTION—
IN SUFFOLK COUNTY, MA

Decided November 23, 2009

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152.50 Subpart F—Exempt Abandonments and Discontinuances of Service for NYC to abandon and CSXT to discontinue service over approximately 2.17 miles of railroad between milepost QBG-5.7 and milepost QBG-7.87 in Chelsea, Suffolk County, MA. Notice of the exemption was served and published in the Federal Register on March 29, 2002 (67 FR 15281).¹

By decision and notice of interim trail use or abandonment (NITU) served April 29, 2002, the proceeding was reopened and a 180-day period was authorized for the City of Chelsea, MA (City), to negotiate an interim trail use/rail banking agreement with NYC for the right-of-way involved in this proceeding pursuant to the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act).² At the request of CSXT, successor by merger to NYC, the negotiation period under the NITU was extended several times; the latest decision, served on November 14, 2007, extended the negotiation period until April 12, 2008. The November 14, 2007 decision also extended the deadline for CSXT to file its notice of consummation until June 11, 2008.

On June 5, 2008, the Georgetown and High Line Railway Company, LLC (G&H) filed a request for the issuance of a NITU for the 2.17-mile rail line. On June 10, 2008, a NITU was served authorizing a 180-day period for G&H to negotiate an interim trail use/rail banking agreement with CSXT for the 2.17-mile rail line until December 2, 2008. By decisions served December 30, 2008, and May 29, 2009, the NITU negotiating period was extended to November 29, 2009. The December 30 and May 29 decisions also extended the deadline for CSXT to file its notice of consummation until January 28, 2010.

¹ The notice issued on March 29, 2002, embraced STB Docket No. AB-55 (Sub-No. 605X), CSX Transportation, Inc.—Discontinuance of Service Exemption—in Suffolk County, MA.

² The April 29, 2002 decision also imposed environmental conditions.

On November 9, 2009, G&H filed a request for extension of the negotiating period until May 28, 2010. G&H states that it and CSXT have been unable to finalize trail use negotiations and that the parties believe that there is only one issue separating them from concluding negotiations. On November 10, 2009, CSXT filed its response, stating that it concurs with the request that the NITU be extended until May 28, 2010. Additionally, CSXT requests that the consummation deadline be extended to July 27, 2010.³

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the negotiating period will promote the establishment of trial use and rail banking consistent with the Trails Act.⁴ Accordingly, as requested by the parties, the negotiating period will be extended until May 28, 2010, and the deadline for CSXT's filing of a notice of consummation will be extended to July 27, 2010. Given the length of time the parties have had to negotiate a trail use agreement, the parties are urged to conclude their negotiations so that further extensions are not necessary.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. G&H's and CSXT's request to extend the NITU negotiating period and CSXT's request for an extension of time to consummate the abandonment are granted.
2. The negotiation period under the NITU is extended to May 28, 2010.
3. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before July 27, 2010.
4. This decision is effective on its service date.

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

³ Under 49 CFR 1152.29(d)(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.

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