

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 14X)

NEW YORK CENTRAL LINES, LLC—ABANDONMENT EXEMPTION—
IN MONTGOMERY AND SCHENECTADY COUNTIES, NY

Decided: December 4, 2008

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 Discontinuance of Service for NYC to abandon and CSXT to discontinue service over approximately 6.3 miles of railroad from milepost QGW 159.6 to milepost QGW 165.9, between South Amsterdam in Montgomery County and Rotterdam Junction in Schenectady County, NY. Notice of the exemption was served and published in the Federal Register (68 FR 14473-74) on March 25, 2003. In this proceeding, the Board is granting a request to extend the interim trail use negotiation period.

By decision and notice of interim trail use or abandonment (NITU) served on April 23, 2003, the proceeding was reopened, and a 180-day period was authorized for the New York State Office of Parks, Recreation and Historic Preservation (New York) 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). The trail use negotiating period under the NITU was extended by a number of decisions, with the most recent decision, served on June 5, 2008. The latest NITU extension expired on October 2, 2008.

On December 1, 2008, CSXT, successor by merger to NYC, submitted a request for an extension of the negotiating period until December 31, 2008. CSXT states that an agreement has been reached with New York regarding interim trail use/rail banking and the additional time is needed to finalize the agreement.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended.¹ Under the circumstances, further extension of the negotiating 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). Accordingly, the NITU negotiating period will be extended from October 2, 2008, to December 31, 2008.

¹ See Rail Abandonments – Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

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

It is ordered:

1. CSXT's request to extend the negotiating period is granted.
2. The negotiating period under the NITU is extended to December 31, 2008.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary