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SERVICE DATE – LATE RELEASE JUNE 5, 2008

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: June 5, 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.

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 November 16, 2007. The latest NITU extension expired on April 5, 2008. The April 5, 2008 decision also extended the deadline for filing a notice of consummation of the abandonment from December 7, 2007, to June 5, 2008.

On June 2, 2008, New York filed a request for an extension of the NITU negotiating period and of the June 5, 2008 consummation notice filing deadline. New York states that, after lengthy discussions between itself and CSXT, the parties expect to conclude negotiations for a trail use agreement soon, but they will not be able to do so in advance of the June 5, 2008 consummation deadline.

On June 3, 2008, CSXT, successor by merger to NYC, e-filed a letter, stating that it supports and agrees to the extension request to complete negotiations. CSXT requests that the Board grant the extension of the NITU negotiating period sought by New York until October 2, 2008. Additionally, CSXT supports New York's request for an extension of the abandonment consummation deadline and requests that the consummation notice filing deadline be extended until December 1, 2008.

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.<sup>1</sup> 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 April 5, 2008, to October 2, 2008, and the consummation notice filing deadline will be extended from June 5, 2008, until December 1, 2008. Given the time that has elapsed since abandonment was authorized, the parties' latest extension request is being granted only because New York has indicated that the parties should conclude negotiations for a trail use agreement soon.

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

It is ordered:

1. The request by New York for an extension of the NITU negotiating period and CSXT's request for an extension of time to exercise abandonment authority are granted.
2. The negotiating period under the NITU is extended to October 2, 2008.
3. The authority to abandon must be exercised on or before December 1, 2008.
4. This decision is effective on its service date.

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

Anne K. Quinlan  
Acting Secretary

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