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SERVICE DATE – NOVEMBER 16, 2007

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: November 15, 2007

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 May 7, 2007. The latest NITU extension expired on October 8, 2007. The May 7, 2007 decision also extended the deadline for filing a notice of consummation of the abandonment from June 9, 2007, until December 7, 2007.

On October 16, 2007, CSXT, successor by merger to NYC, filed a request for an additional 180-day extension of the NITU negotiating period until April 5, 2008. CSXT states that it has not consummated the abandonment, has not been able to finalize negotiations with New York, and desires to continue to negotiate for interim trail use/rail banking with New York. CSXT explains that, since the last extension request, New York has received a new appraisal for the 6.3-mile line proposed for abandonment and negotiations have progressed materially based on information in that appraisal. Additionally, CSXT requests an extension of the consummation notice filing deadline until June 5, 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.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 8, 2007, to April 5, 2008, and the consummation notice filing deadline will be extended from December 7, 2007, to June 5, 2008. Given the time that has elapsed since abandonment was authorized, the parties are once again urged to conclude their negotiations so that further extensions are not necessary. This latest extension should provide ample time in which to conclude negotiations using the new appraisal. Under the circumstances, any requests for a further extension likely will be denied.

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

It is ordered:

1. The requests by CSXT for an additional 180-day NITU negotiating period and for an extension of time to exercise abandonment authority are granted.
2. The negotiating period under the NITU is extended to April 5, 2008.
3. The authority to abandon must be exercised on or before June 5, 2008.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

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