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SERVICE DATE – MAY 7, 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: May 4, 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 Discontinuances 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. The notice stated that, if consummation had not been effected by NYC's filing of a notice of consummation by March 25, 2004, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.

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 October 13, 2006. The latest NITU extension expired on April 11, 2007. The October 13, 2006 decision also extended the deadline for filing a notice of consummation of the abandonment from December 11, 2006, until June 9, 2007.

On April 20, 2007, CSXT, successor by merger to NYC, filed a request for an additional 180-day extension of the NITU negotiating period until October 8, 2007. 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. Additionally, CSXT requests an extension of the consummation notice filing deadline until December 7, 2007.

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 11, 2007, to October 8, 2007, and the consummation notice filing deadline will be extended from June 9, 2007, until December 7, 2007. Given the time that has elapsed since abandonment was authorized, however, the negotiation parties are urged to conclude their negotiations so that further extensions are not necessary.

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 October 8, 2007.
3. The authority to abandon must be exercised on or before December 7, 2007.
4. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary

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