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SERVICE DATE – LATE RELEASE JANUARY 25, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 10X)

NEW YORK CENTRAL LINES, LLC-ABANDONMENT
EXEMPTION-IN WORCESTER COUNTY, MA

Decided: January 25, 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 4.2 miles of railroad between milepost QBU-00 and milepost QBU-4.2 from Fitchburg to Leominster, in Worcester County, MA. Notice of the exemption was served and published in the Federal Register on May 30, 2002 (67 FR 37911).¹ On June 28, 2002, a decision and notice of interim trail use or abandonment (NITU) was served, reopening the proceeding and authorizing a 180-day period for the Cities of Leominster and Fitchburg (Cities) to negotiate an interim trail use/rail banking agreement with applicants for the entire line. At the request of CSXT, the negotiating period was extended several times; the latest extension, granted by decision served July 19, 2006, extended the negotiating deadline until January 14, 2007. The July 19 decision also extended the deadline for CSXT to file its notice of consummation until March 15, 2007.

On January 16, 2007, CSXT filed a request for an extension of the NITU negotiating period until July 13, 2007, stating that the applicants have not consummated the abandonment and have been unable to finalize negotiations but desire to continue negotiations for interim trail use/rail banking with the Cities. Additionally, CSXT requests an extension of the consummation notice filing deadline until September 11, 2007.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and has indicated its willingness to continue negotiations by requesting an extension, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, an 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 negotiation period will be

¹ The notice issued May 30, 2002, embraced STB Docket No. AB-55 (Sub-No. 616X), CSX Transportation, Inc.-Discontinuance of Service Exemption-in Worcester County, MA.

extended to July 13, 2007, and the consummation notice filing deadline will be extended to September 11, 2007.² Given the time that has elapsed since abandonment was authorized, the negotiation parties are urged to conclude their negotiations so that further extensions are not necessary.

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

It is ordered:

1. CSXT's request for an extension of the negotiating period and its request for an extension of time to exercise the abandonment authority are granted.
2. The negotiating period under the NITU is extended to July 13, 2007.
3. The authority to abandon must be exercised on or before September 11, 2007.
4. This decision is effective on its date of service.

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

Vernon A. Williams
Secretary

² Under 49 CFR 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of the time to file a notice of consummation in abandonment proceedings.