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SEC

SERVICE DATE – MARCH 17, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34046

NEW YORK CROSS HARBOR RAILROAD—PETITION FOR DECLARATORY ORDER

Decided: March 16, 2006

By decision served on June 27, 2001, the Board, at the request of the parties, placed in abeyance a petition from the New York Cross Harbor Railroad (NYCH) for issuance of a declaratory order regarding federal preemption of the New Jersey Department of Environmental Protection (NJDEP) regulations on the construction and operation of intermodal transfer facilities for solid waste (N.J.A.C. § 7:26-3.6).

This proceeding has been held in abeyance for almost 5 years. In that time, there have been no filings in this proceeding. The Board has requested updates from the parties as to the status of their discussions and their intentions with respect to this proceeding. As of this date, no update has been provided. Given the length of time for which the Board has held this proceeding open, and given that there appears to be no indication of progress in the proceeding, a show cause order is reasonable. Therefore, in the absence of a showing within 30 days by NYCH or any other party, of a need for the Board to keep this matter pending, the Board intends to dismiss this proceeding.

It is ordered:

1. Pleadings demonstrating a need to keep this proceeding pending are due by April 17, 2006.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary