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SERVICE DATE - OCTOBER 7, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 1X)

NEW YORK CENTRAL LINES, LLC—ABANDONMENT EXEMPTION—IN
MIDDLESEX COUNTY, MA

Decided: October 4, 2002

By decision and notice of interim trail use or abandonment (NITU) served on October 12, 2001 (October 2001 decision), the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by New York Central Lines, LLC (NYC) of a 4.80-mile portion of a line of railroad known as the Albany Division, Fitchburg Subdivision, extending from milepost QBS 0.00 at Framingham to milepost QBS 4.80 at South Sudbury, in Middlesex County, MA, subject to trail use, public use, and standard employee protective conditions.¹ The October 2001 decision authorized the Town of Sudbury to negotiate with the carrier for interim trail use/rail banking for the 1.4-mile portion of the line that extends north from the Framingham town line to the intersection of the former Penn Central Transportation Company line. The NITU negotiating period, which was scheduled to expire on April 10, 2002, was extended through October 7, 2002, by decision served on April 10, 2002. The October 2001 decision also stated that, if consummation has not been effected by the filing of a notice of consummation by October 12, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

On September 16, 2002, CSXT filed a request to extend the NITU negotiating period until April 7, 2003. CSXT states that the parties have been unable to complete negotiations. CSXT also requested, in light of the trail use condition, to extend, until June 6, 2003, the time to consummate the abandonment. That time period may be extended, for good cause shown, under 49 CFR 1152.29 (e)(2).

¹ This case embraces STB Docket No. AB-55 (Sub-No. 593X), CSX Transportation, Inc.—Discontinuance of Service Exemption—In Middlesex County, MA. CSX Corporation, CSX Transportation, Inc.'s (CSXT) parent company, and Norfolk Southern Corporation jointly acquired control of Conrail Inc. and its wholly owned subsidiary, Consolidated Rail Corporation (Conrail). As a result of that acquisition, certain assets of Conrail have been assigned to NYC, a wholly owned subsidiary of Conrail, to be exclusively operated by CSXT pursuant to an operating agreement. The line to be abandoned is included among the property being operated by CSXT pursuant to the NYC operating agreement.

CSXT has shown good cause to extend the time to consummate the abandonment and for filing a notice of consummation in this proceeding. Also, because CSXT has not consummated the abandonment and is willing to continue negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended.² Under the circumstances, an extension of the negotiating period is warranted. Accordingly, the NITU negotiating period will be extended until April 7, 2003, and the abandonment consummation date will be extended until June 6, 2003.³

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

It is ordered:

1. CSXT's requests to extend the NITU negotiating period for the 1.4-mile line segment described above, and to extend the time to exercise the abandonment authority are granted.
2. The negotiating period under the NITU is extended until April 7, 2003.
3. The authority to abandon must be exercised on or before June 6, 2003.
4. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary

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

³ Although the CSXT request to extend the negotiating period until April 7, 2003, exceeds by a few days the normal 180-day extension request, the Board has in the past granted requests for extensions in excess of 180 days and will do so here.