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SEC

SERVICE DATE – APRIL 21, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34046

NEW YORK CROSS HARBOR RAILROAD—PETITION FOR DECLARATORY ORDER

Decided: April 20, 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).

In a decision served on March 17, 2006 (March 17 decision), the Board directed the parties to file pleadings by April 17, 2006, demonstrating a need to keep the proceeding pending. The Board noted that, in the absence of such pleadings, the proceeding would be dismissed. By letter filed April 17, 2006, NYCH requests that the Board dismiss without prejudice its petition for declaratory order. No other pleadings were filed in response to the March 17 decision. The Board finds no reason for continuing to keep this proceeding pending. Accordingly, NYCH's motion to dismiss will be granted, and this proceeding will be discontinued.

It is ordered:

1. The motion to dismiss is granted, and this proceeding is discontinued.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary