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SERVICE DATE – SEPTEMBER 24, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 2X)

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

Decided: September 21, 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 4.17 miles of railroad between milepost QBH-2.60 near Sherborn and milepost QBH-6.77 near Holliston, in Middlesex County, MA. On August 31, 2001, a decision and notice of interim trail use or abandonment (NITU) was served, reopening the proceeding and authorizing a 180-day period for the Town of Sherborn (Sherborn) and the Town of Holliston (Holliston) to negotiate an interim trail use/rail banking agreement with applicants for the right-of-way in this proceeding. The negotiation period under the NITU was extended several times; the latest extension, served on August 8, 2006, extended the negotiation period until August 27, 2007. By decision served on February 22, 2006, the deadline for CSXT to file its notice of consummation was extended until October 20, 2006, but the effect of the August 8, 2006 decision was to extend the consummation deadline until 60 days after the August 27, 2007 expiration of the NITU negotiating period.

By letter filed on August 28, 2007, CSXT requested an extension of the NITU negotiating period until February 23, 2008. CSXT states that it has not consummated the abandonment, has been unable to finalize negotiations, but desires to continue to negotiate interim trail use/rail banking with Sherborn and Holliston. Additionally, CSXT requests an extension of the consummation notice filing deadline until April 23, 2008.<sup>1</sup>

Even if a negotiation period expires, when a carrier consents to continuing negotiations and has not consummated abandonment of the line, the Board continues to have jurisdiction to grant an extension. 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). An extension of the negotiating period would promote the establishment of trail use and rail banking consistent with the National Trails

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<sup>1</sup> Under 49 CFR 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings.

System Act, 16 U.S.C. 1247(d).<sup>2</sup> Accordingly, the NITU negotiating period will be extended for an additional 180 days from August 27, 2007 (until February 23, 2008), and the consummation notice filing deadline will be extended to April 23, 2008. Given the time that has elapsed since abandonment was authorized, the 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 to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to February 23, 2008.
3. The authority to abandon must be exercised on or before April 23, 2008.
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>2</sup> See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).