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SERVICE DATE - JANUARY 2, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-156 (Sub-No. 23X)

DELAWARE AND HUDSON RAILWAY COMPANY, INC. D/B/A CANADIAN PACIFIC  
RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN ALBANY COUNTY, NY

Decided: December 30, 2003

Delaware and Hudson Railway Company, Inc., d/b/a Canadian Pacific Railway Company (D&H), filed a notice of exemption under 49 CFR 1152 Subpart F-Exempt Abandonments to abandon a 9.14 +/- mile portion of railroad known as the Albany Main or the Voorheesville Running Track, between milepost 10.94 +/- and milepost 1.8 +/- in Albany County, NY. Notice of the exemption was served and published in the Federal Register on June 16, 2003 (68 FR 35774-75). The exemption was scheduled to become effective on July 16, 2003.

By decision and notice of interim trail use or abandonment (NITU) served on July 8, 2003, the proceeding was reopened and the exemption was made subject to interim trail use/rail banking and public use conditions, and the conditions that D&H shall: (1) retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f; (2) comply with the requirements of the New York Department of State, Division of Coastal Resources, prior to any salvage activities; and (3) contact the New York State Department of Environmental Conservation, Division of Environmental Permits, Region 4, concerning possible impacts on water quality and any water quality permitting requirements prior to any salvage activities. By decision served November 5, 2003, the section 106 historic preservation condition was removed. The two other imposed conditions remain in effect. A 180-day period (until January 12, 2004) was authorized to permit public use negotiations and to permit the County of Albany, NY (County), to negotiate an interim trail use/rail banking agreement with D&H for the described line.

On December 15, 2003, the County filed a request for an extension of the negotiating period for an additional 180 days. The County states that it has held discussions with representatives of D&H regarding acquisition of the corridor. Additionally, the County states that it has made a request to the New York State Office of Parks, Recreation, and Historic Preservation for funding through the Environmental Protection Fund and Land & Water Conservation Fund to assist in the acquisition. The County anticipates a decision on the pending grant request by early 2004. The County further states that another entity, Scenic Hudson Land Trust, Inc., is interested in participating in the acquisition and has commissioned an independent appraisal of the corridor. The County states that the appraisal report

will be completed in late December 2003, at which time formal negotiations will commence. The County states that it needs the requested extension because it will not be possible to complete negotiations by the current January 12, 2004 deadline. On December 22, 2003, D&H advised the Board that it has no objection to the extension request. Accordingly, the negotiating period will be extended to July 10, 2004.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the negotiating period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

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

It is ordered:

1. The request to extend the interim trail use negotiating period is granted.
2. The negotiating period under the NITU is extended until July 10, 2004.
3. This decision is effective on its date of service.

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

Vernon A. Williams  
Secretary