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SERVICE DATE – DECEMBER 30, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 7X)

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

Decided: December 29, 2008

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152.50 Subpart F—Exempt Abandonments and Discontinuances of Service for NYC to abandon and CSXT to discontinue service over approximately 2.17 miles of railroad between milepost QBG-5.7 and milepost QBG-7.87 in Chelsea, Suffolk County, MA. Notice of the exemption was served and published in the Federal Register on March 29, 2002 (67 FR 15281).<sup>1</sup>

By decision and notice of interim trail use or abandonment (NITU) served April 29, 2002, the proceeding was reopened and a 180-day period was authorized for the City of Chelsea, MA (City), to negotiate an interim trail use/rail banking agreement with NYC for the right-of-way involved in this proceeding pursuant to the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act).<sup>2</sup> At the request of CSXT, successor by merger to NYC, the negotiation period under the NITU was extended several times; the latest decision, served on November 14, 2007, extended the negotiation period until April 12, 2008. The November 14, 2007 decision also extended the deadline for CSXT to file its notice of consummation until June 11, 2008.

On June 5, 2008, the Georgetown and High Line Railway Company, LLC (G&H) filed a request for the issuance of a NITU for the 2.17-mile rail line. On June 10, 2008, a NITU was served authorizing a 180-day period for G&H to negotiate an interim trail use/rail banking agreement with CSXT for the 2.17-mile rail line until December 2, 2008.

On December 3, 2008, G&H filed a request for extension of the negotiating period until June 2, 2009. G&H states that it and CSXT have been unable to finalize trail use negotiations. On December 15, 2008, CSXT filed its response, stating that it concurs with the request that the

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<sup>1</sup> The notice issued on March 29, 2002, embraced STB Docket No. AB-55 (Sub-No. 605X), CSX Transportation, Inc.—Discontinuance of Service Exemption—in Suffolk County, MA.

<sup>2</sup> The April 29, 2002 decision also imposed environmental conditions.

NITU be extended until June 2, 2009. Additionally, CSXT requests that the consummation deadline be extended to August 1, 2009.<sup>3</sup>

Even if a negotiating 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 described in this decision, further extension of the negotiation 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). Accordingly, as requested by the parties, the negotiating period will be extended from December 2, 2008, until June 2, 2009, and the deadline for CSXT's filing of a notice of consummation will be extended to August 1, 2009.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. G&H's and CSXT's request to extend the NITU negotiating period and CSXT's request for an extension of the time to exercise abandonment authority are granted.
2. The negotiation period under the NITU is extended to June 2, 2009.
3. The authority to abandon must be exercised on or before August 1, 2009.
4. This decision is effective on its service date.

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

Anne K. Quinlan  
Acting Secretary

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<sup>3</sup> Under 49 CFR 1152.29(d)(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.