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SERVICE DATE – OCTOBER 13, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 14X)

NEW YORK CENTRAL LINES, LLC–ABANDONMENT EXEMPTION–
IN MONTGOMERY AND SCHENECTADY COUNTIES, NY

Decided: October 12, 2006

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 Discontinuance of Service for NYC to abandon and CSXT to discontinue service over approximately 6.3 miles of railroad from milepost QGW 159.6 to milepost QGW 165.9, between South Amsterdam in Montgomery County and Rotterdam Junction in Schenectady County, NY. Notice of the exemption was served and published in the Federal Register (68 FR 14473-74) on March 25, 2003. The notice stated that, if consummation had not been effected by NYC's filing of a notice of consummation by March 25, 2004, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.

By decision and notice of interim trail use or abandonment (NITU) served on April 23, 2003, the proceeding was reopened, and a 180-day period was authorized for the New York State Office of Parks, Recreation and Historic Preservation (New York) 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). The trail use negotiating period under the NITU was extended by decisions served on October 16, 2003, April 27, 2004, October 21, 2004, April 21, 2005, October 19, 2005, and April 14, 2006, and the consummation notice filing deadline also was extended by the decisions served on October 21, 2004, April 21, 2005, October 19, 2005, and April 14, 2006. The latest NITU extension is scheduled to expire on October 13, 2006. The consummation notice filing deadline is scheduled to expire on December 11, 2006.

On October 4, 2006, CSXT, successor by merger to NYC, filed a request for an additional 180-day extension of the NITU negotiating period until April 11, 2007. CSXT states that it has not consummated the abandonment, has not been able to finalize negotiations with New York, and desires to continue to negotiate for interim trail use/rail banking with New York. Additionally, CSXT requests an extension of the consummation notice filing deadline until June 9, 2007.¹

¹ By letter dated October 6, 2006, CSXT amended its requests to reflect the correct extension sought for the NITU negotiating period and the consummation notice filing deadline.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.² Because an extension of the consummation notice filing deadline and the NITU negotiating period will promote the establishment of trails and rail banking consistent with the Trails Act, the requested extensions will be granted. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990). Accordingly, the NITU negotiating period will be extended to April 11, 2007, and the consummation notice filing deadline will be extended until June 9, 2007.

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

It is ordered:

1. The requests by CSXT for an additional 180-day NITU negotiating period and for an extension of time to exercise abandonment authority are granted.
2. The negotiating period under the NITU is extended to April 11, 2007.
3. The authority to abandon must be exercised on or before June 9, 2007.
4. This decision is effective on its service date.

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).