

National Association of Reversionary Property Owners (NARPO)

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Comment on AB 873X, AB 55-625X and AB 565-17X: Abandonments and Discontinuances in Dutchess County, New York

NARPO is commenting on today's decision, October 23, 2019, by the Office of Proceedings granting a NITU to Dutchess County, New York on the rights of way in these abandonments. See the pertinent paragraph below:

Therefore, because CSXT is willing to negotiate for trail use with the County for the 2.72-mile portion of the Line, and the County's July 30, 2019 request complies with 49 C.F.R. § 1152.29, a NITU for the 2.72-mile portion will be issued for a period of 180 days.

As NARPO has mentioned on many occasions in this abandonment, the rail line involved is not connected to the National Rail System and cannot be considered for a NITU. CSX has tried numerous times to conjure up excuses to try and show that somehow the rail lines in these abandonments are somehow connected to the National Rail System.

The latest excuse CSX has tried was in their 10/16/2019 Reply, and that reply refers to a map CSX supplied in their 8/19/2019 Reply. But if the Board would look closely at the map CSX supplied on 8/19/2019, the Board will see the only connection to the proposed abandoned rail lines is the connection to Metro-North which according to the note on the map, Metro-North controls the north-south rail lines through Poughkeepsie that connect to the abandoned rail lines in this abandonment. In NARPO's Comment of 10/18/2019, NARPO pointed out that Metro-North is not a common carrier and in fact Metro-North

specifically asked the Board not to be a common carrier in a 2004 filing and the STB granted in a subsequent STB decision. All the other ends of the rail lines in this abandonment never were connected to another rail line or the ends were connected to a rail lines that were abandoned as part of the Northeast Rail Corridor legislation of the 1980s.

It is well established by STB precedence and court decisions that NARPO has previously quoted in our previous comments and replies, a NITU is not valid on a rail line that is not connected to the National Rail System. NARPO believes the Director of the Office of Proceedings was wrong to grant the NITU to Dutchess County when the Board has not made a decision on the issue NARPO has brought up months ago about the line not connecting to the National Rail System..

Even though Dutchess County had two or three previous NITU's granted by the Office of Proceedings, all of those NITUs expired due to no action between Dutchess County and CSX. It is possible that Dutchess County and CSX could sign a trail use agreement which if NARPO is correct on the no connection to the National Rail system would make any such agreement null and void and invalid. There is plenty of evidence before the Board to make a decision on NARPO's contentions of no connection to the National Rail System.

NARPO contends that the Office of Proceedings should not have issued the NITU to Dutchess County..

Sincerely yours

Richard Welsh

NARPO has served all parties of record via email on October 23, 2019.
Richard Welsh--Executive Director, NARPO