



COUNTY OF DUTCHESS

DEPARTMENT OF LAW

248264

July 29, 2019

Ms. Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D. C. 20423

ENTERED
Office of Proceedings
July 30, 2019
Part of
Public Record

RE: Docket No. AB-565 (Sub-No. 17X),
New York Central Lines, LLC –
Abandonment Exemption – in Dutchess County, NY
Our file No. R-0790

Dear Ms. Brown:

By decision and notice of interim trail use or abandonment ("NITU") served on October 15, 2004, the Surface Transportation Board (the "Board"), under 49 U.S.C. §10502, exempted from the prior approval requirements of 49 U.S.C. §10903 the abandonment by New York Central Lines, LLC ("NYC"), of approximately 4.7 miles of railroad line between milepost QCO 0.0 and milepost QCO 3.2 and between milepost QCK 29.5 and milepost QCK 31.0 (the "Line"), in the city and town of Poughkeepsie, Dutchess County, NY.

Dutchess County, NY ("Dutchess County"), a not for profit corporation organized under the laws of the State of New York, requests a notice of interim trail use/rail banking over the approximately 2.72-mile portion of the Line between milepost QCO 0.48 and milepost QCO 2.1±, and milepost QCO 2.0± and milepost QC 74.08 (formerly milepost QCO 3.2) in the city and town of Poughkeepsie, Dutchess County, NY. A map depicting the right-of-way-is attached.

By decision and NITU served on August 24, 2009, the Board accepted the late-filed request of Poughkeepsie-Highland Bridge Co., Inc., dba Walkway Over the Hudson, a 501(c)(3) non-profit New York corporation ("Walkway") for a NITU to negotiate with CSX Transportation, Inc. ("CSXT"), as successor to NYC, for trail use for a 0.5-mile portion of the Line between milepost QCK 29.5 and milepost QCK 30.0. Ownership of this 0.5-mile portion of the Line was successfully transferred to Walkway and the Board was advised that a trail use agreement had been reached in a filing dated September 9, 2009.

By decision and NITU served on December 29, 2011 (the "*December 2011 Decision*"), the Board accepted the late-filed request of Walkway for a NITU to negotiate with CSXT for a 1.0-mile portion of the Line between milepost QCK 30.0 and QCK 31.0. In granting Walkway's request, the Board found there were legal or regulatory barriers to consummation of the

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abandonment and that the abandonment authority was still in effect. The *December 2011 Decision* held that if the parties did not implement an interim trail use agreement by June 26, 2012, CSXT could fully abandon the line segment, if there are no legal or regulatory barriers to consummation. Dutchess County contends that the legal or regulatory barriers that existed at the time of the December 2011 decision still exist.

In *New York and Eastern Railway, LLC-Discontinuance Exemption-in Dutchess County, NY*, STB Docket No. AB-873X (STB served October 14, 2004), slip op. at 7, the Board granted an exemption for New York and Eastern Railway, LLC (“NYE”) and CSXT to discontinue service and for NYC to abandon the Line subject to the condition that NYC “consult with Fish and Wildlife Division, Region 5, New York Field Office, U.S. Army Corps of Engineers, New York District, New York State Department of Environmental Conservation, Division of Water, New York Department of State, Coastal Management Program, and Town of Poughkeepsie prior to initiation of salvaging or disposing of the entire right-of-way” (the “Condition”).

Neither CSXT nor NYE complied with the environmental conditions. Indeed, as evidenced in a letter dated June 24, 2005, and filed with the Board, the New York Department of State (“NYDS”) required the completion of the NYDS Coastal Management Program Federal Consistency Assessment Form. CSXT never completed the form. Nor is there any evidence that CSXT consulted with the other parties. Since CSXT did not consult with the parties necessary to comply with the Condition. Dutchess County contends that the Condition is a regulatory or legal barrier to consummation and that the consummation deadline will not occur until 60 days after CSXT complies with the Condition. Therefore, Dutchess County contends that the abandonment authority is still in effect, that CSXT has not consummated the abandonment, and that the Line remains eligible for the issuance of a NITU.

Dutchess County now requests the issuance of an Interim Trail Use Condition, over the approximately 2.72-mile portion of the Line between milepost QCO 0.48 and milepost QCO 2.1±, and milepost QCO 2.0± and milepost QC 74.08 (formerly milepost QCO 3.2), located in Dutchess County, NY. Dutchess County understands that CSXT has not consummated the abandonment of the 2.72-mile portion of the Line.

A map depicting the right-of-way is attached.

In order to establish interim trail use and railbanking under 16 U.S.C. §1247(d), and 49 CFR §1152.29, Dutchess County is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by and operated by CSX Transportation, Inc. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-565 (Sub-No. 17X).

Dutchess County acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

Dutchess County is a local government entity. Pursuant to 49 CFR 1002.2(e)(1), the Board has waived filing fees for local government entities.

By my signature below, I certify service upon CSX Transportation, Inc.

Respectfully submitted,


JAMES M. FEDORCHAK
Dutchess County Attorney

JMF/CMC/kvh

cc: Robert H. Balkind, Commissioner
Dutchess County Department of Public Works
Christine M. Chale, Esq.
Rodenhausen, Chale & Polidoro, LLP.
Abdiel Lopez-Torres, Project Manager
Scenic Hudson

Enclosure - Map

EXHIBIT A

GIS #
72364-001
72366-001
72367-001
72368-001

INTEL #
V8083/1
V8083/2
V8083/3
V8083/38

PIN #
36027 0001
36027 0008
36027 0009
36027 0015



1" = 1,600'

0 400 800 1,600 2,400 3,200 Feet

QR 72

QR 73

QC 74.08

QCO 2.0

QCO 2.1

72367

72368

72364

72366

QCO 0.48

CSX TRANSPORTATION, INC.
POUGHKEEPSIE TRAIL
SITE: NY-027-1085526
DUTCHESS COUNTY - POUGHKEEPSIE, NY
MILEPOST: QCO 0.48 - QCO 2.00

DIVISION: ALBANY
SUBDIVISION: HUDSON
DATE: 07/17/2019
REVISED: 07/17/2019
DRAWN BY: V5180

○ Engineering Milepost
▨ Premises - 24.37 ± Acres
□ CSX Real Estate

THIS RAILROAD MAP EXHIBIT GRAPHICALLY REPRESENTS A PROPOSED REAL ESTATE TRANSACTION. IT MAY NOT REFLECT CURRENT "ON THE GROUND" CONDITIONS AND/OR ACTUAL LOCATIONS OF FEATURES. ALL DIMENSIONS, OFFSET DISTANCES, AREA CALCULATIONS AND MEASUREMENT NOTATIONS SHOWN ON THIS EXHIBIT ARE APPROXIMATE.

CERTIFICATE OF SERVICE

I certify that I have this day served copies of the document in Docket No. AB-565 (Sub-No. 17X) upon all parties of record in this proceeding by first-class mail, postage pre-paid.



Louis E. Gitomer
July 30, 2019