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SERVICE DATE – NOVEMBER 1, 2006

SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: October 31, 2006

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).¹ On April 29, 2002, a decision and notice of interim trail use or abandonment (NITU) was served, reopening the proceeding and authorizing a 180-day period 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. At the request of CSXT, the negotiation period under the NITU was extended several times; the latest extension, served on April 21, 2006, extended the negotiating period until October 20, 2006. The April 21, 2006 decision also extended the deadline for CSXT to file its notice of consummation until December 19, 2006.

On October 20, 2006, CSXT, successor by merger to NYC, filed a request to extend the NITU negotiation period until April 18, 2007. CSXT states that it has not consummated the abandonment, has been unable to finalize trail use negotiations with the City, and desires to continue to negotiate interim trail use/rail banking with the City. Additionally, CSXT requests an extension of the consummation notice filing deadline until June 17, 2007.²

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

¹ 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.

² 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.

negotiating 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). Because an extension of the consummation notice filing deadline and the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d), the requested extension will be granted. Accordingly, the NITU negotiation period will be extended until April 18, 2007, and the consummation notice filing deadline will be extended to June 17, 2007.

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

It is ordered:

1. CSXT's request for an extension of the negotiating period and its request for an extension of the time to exercise abandonment authority are granted.
2. The negotiating period under the NITU is extended to April 18, 2007.
3. The authority to abandon must be exercised on or before June 17, 2007.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary