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SERVICE DATE LATE RELEASE - JUNE 24, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 569X)

CSX TRANSPORTATION, INC.--ABANDONMENT EXEMPTION--IN GUERNSEY AND  
NOBLE COUNTIES, OH

Decided: June 24, 1999

By decision served on June 4, 1999, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by CSX Transportation, Inc. (CSXT), of a portion of its Louisville Service Lane, Central Ohio Subdivision, extending from milepost BPB-4.9 near Byesville to milepost BPB-18.23 at the end of the track near Cumberland, a distance of 13.3 miles, in Guernsey and Noble Counties, OH. The exemption was scheduled to become effective on July 4, 1999, unless stayed by the Board or unless a formal offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1) was filed by June 14, 1999.

On June 14, 1999, the Cambridge-Guernsey County Community Improvement Corporation (CIC) filed a letter styled "notice of intent to file an OFA" to purchase 3.6 miles of the line of railroad between milepost 4.9 near Byesville and milepost 8.5 in Derwent. CIC states that it will timely submit an OFA to purchase the 3.6-mile line segment after it has had time to review the net liquidation value (NLV) appraisal documents that CSXT will provide.<sup>1</sup>

CIC attached to its letter a copy of a letter, dated May 19, 1999, it received from the Ohio Rail Development Commission (ORDC) stating that ORDC commits to provide CIC a grant of "up to \$93,000" for the purchase of the line segment to help rehabilitate the line.

In proceedings involving a petition for exemption for abandonment, the Board's regulations codified at 49 CFR 1152.27(b)(2) provide that the OFA must be filed within 120 days after the filing of the petition for exemption or 10 days after the service of a Board decision granting the exemption, whichever occurs sooner (in this instance, as previously stated, by June 14, 1999).<sup>2</sup> The

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<sup>1</sup> CIC submits that CSXT provided an NLV of \$98,000, but did not include any underlying materials to support this figure. CIC states that CSXT has agreed to sell the line segment for \$93,000.

<sup>2</sup> The Board's revised regulations no longer provide for a notice of intent to file an OFA in proceedings involving petitions for abandonment exemptions. See Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903, STB Ex Parte No. 537 (STB served Dec. 24, 1996, and June 27, 1997).

Board will entertain petitions to toll the 10-day period for filing OFAs when the railroad has not provided a potential offeror with the information necessary to the development of its OFA. See 49 CFR 1152.27(c)(1)(i)(C). While the record is not altogether clear on this point, that appears to be the case here. Accordingly, CIC's letter will be treated as a late-filed<sup>3</sup> petition to toll, the time period for filing an OFA in this proceeding for the 3.6-mile line segment will be tolled until July 14, 1999, and the effective date of the abandonment exemption as to that segment will be postponed until July 24, 1999. CSXT is expected promptly to provide CIC with the necessary information, as prescribed in 49 CFR 1152.27(a), so that CIC may file its OFA by July 14, 1999.

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

It is ordered:

1. The time period for CIC to file an OFA for the segment of the line between milepost 4.9 and milepost 8.5 is tolled until July 14, 1999.
2. The effective date of the exemption as to the segment of the line between milepost 4.9 and milepost 8.5 is postponed until July 24, 1999.
3. The effective date of the exemption for the remainder of the line between milepost 8.5 and milepost 18.23 remains July 4, 1999.
4. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary

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<sup>3</sup> Petitions to toll were due by June 9, 1999, pursuant to 49 CFR 1152.27(c)(1)(i)(C).