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SERVICE DATE – LATE RELEASE OCTOBER 4, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 704X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN CLAY COUNTY,
KY.

Decided: October 4, 2010

CSX Transportation, Inc. (CSXT), filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 2.95-mile line of railroad on its Southern Region, Huntington Division West, CV Subdivision, extending from milepost OCF 208.71 to milepost OCF 211.66, known as the Horse Creek Branch, in Manchester, Clay County, Ky. Notice of the exemption was served and published in the Federal Register on September 3, 2010 (75 Fed. Reg. 54,216-17). The exemption is scheduled to become effective on October 5, 2010.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on September 10, 2010. In the EA, OEA states that the National Geodetic Survey (NGS) commented that 4 geodetic station markers have been identified that may be affected by the proposed abandonment. Accordingly, OEA recommends a condition that CSXT be required to consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers.

In the EA, OEA also states that the Army Corps of Engineers (Corps), Louisville District, indicated that the proposed abandonment could affect waters of the United States under its jurisdiction and requested additional information from CSXT regarding the proposed action to be certain of any potential effects. No comments have yet been received from the Nashville District of the Corps, which shares jurisdiction of the area with the Louisville District. Accordingly, OEA recommends a condition that CSXT consult with the Louisville and Nashville District offices of the Corps regarding possible impacts to water bodies and wetlands.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database (Database) at <http://home.nps.gov/nacd/> to identify Federally recognized tribes, which may have ancestral connections to the project area. According to OEA, the Database indicated that there are 4 tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the Area of Potential Effect). The tribes are: the Delaware Nation of Oklahoma; the Eastern Band of the Cherokee Nations of North Carolina; the Miami Tribe of Oklahoma; and the Peoria Tribe of Indians of Oklahoma. OEA sent a copy of the EA to these tribes for review and comment.

Comments to the EA were due by September 24, 2010. No comments were received. Accordingly, the conditions recommended by OEA in the EA will be imposed.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on September 3, 2010, exempting the abandonment of the line described above, is subject to the conditions that CSXT be required to: (1) consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers; and (2) consult with the Louisville and Nashville District offices of the Corps regarding possible impacts to water bodies and wetlands.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.