

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 685X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–  
IN GLYNN COUNTY, GEORGIA

Decided: May 14, 2009

This decision rejects the notice of exemption in this case for failure to comply with the requirements of 49 CFR 1152.50(b).

BACKGROUND

On May 1, 2009, CSX Transportation, Inc. (CSXT) filed a verified notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 0.31-mile rail line between milepost AOB 534.36 and milepost AOB 534.67 in Brunswick, Glynn County, GA (the line). The notice stated that no local or overhead rail traffic had moved over the line during the past 2 years. CSXT certified the absence of local or overhead traffic in the verified statement of Ellen M. Preslar. Ms. Preslar also stated that the line had been used for railroad convenience to realign locomotives for service to one customer.

The Board’s staff contacted CSXT to seek clarification regarding the use of the line to realign locomotives. CSXT faxed its response to the Board on May 6, 2009. CSXT stated that the line was used to reposition its empty and loaded trains in connection with service to a customer, and that “CSXT has not used the abandoned track in over a year to reposition its trains because it has been able to do so without utilizing the abandoned track.”

DISCUSSION AND CONCLUSIONS

Under 49 CFR 1152.50(b), an abandonment is exempt if the carrier certifies that no local traffic has moved over the line for at least 2 years and any overhead traffic on the line can be rerouted over other lines. The 2-year out-of-service class exemption was adopted to provide carriers with an expedited procedure for abandoning rail lines in those situation where the Board would undoubtedly grant the requested relief if the facts were as alleged by the carrier. See The St. Louis Southwestern Railway Company—Abandonment Exemption—in Gasconade, Maries, Osage, Miller, Cole, Morgan, Benton, Pettis, Henry, Johnson, Cass, and Jackson Counties, MO, Docket No. AB-39 (Sub-No. 18X), et al., slip op. at 2 (ICC served Apr. 1, 1994) (St. Louis). In administering the class exemption, the Board depends on the accuracy of the information in the carrier’s certification. To ensure the integrity of the class exemption procedure, the Board’s regulations provide that “[i]f the notice of exemption contains false or misleading information,

the use of the exemption is void ab initio and the Board shall summarily reject the exemption notice.” 49 CFR 1152.50(d)(3). This rule contains no exception for de minimis errors in the notice of exemption concerning usage of the line. St. Louis, slip op. at 3.

Based on the information provided in CSXT’s notice and the information provided in CSXT’s May 6 letter, the evidence shows that CSXT moved some undefined level of local traffic over the line for a shipper during the 2-year period prior to filing the notice of exemption. This means that proposed abandonment does not qualify for the class exemption. As a result, the Board will reject CSXT’s notice of exemption as void ab initio.

CSXT is not foreclosed from filing a properly supported notice of exemption in the future when the line has been dormant for a full 2-year period. CSXT may also file a petition for an individual exemption or a full application to abandon the line.

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

It is ordered:

1. The notice of exemption is rejected without prejudice to a subsequent filing consistent with this decision.
2. This decision is effective on its date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary