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SERVICE DATE – DECEMBER 17, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 691X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN WORCESTER COUNTY, MA

Decided: December 16, 2008

CSX Transportation, Inc. (CSXT), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 4.2-mile line of railroad between milepost QBU 0.0 (Fitchburg) and milepost QBU 4.2 (Leominster), in Worcester County, MA (the line).¹ On November 20, 2008, notice of the exemption was served and published in the Federal Register (73 FR 70405-06). The exemption is scheduled to become effective on December 20, 2008.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on November 25, 2008. In the EA, SEA recommends one condition. SEA notes that the City of Leominster, Conservation Commission (LCC), has indicated that it believes CSXT to be in violation of the Massachusetts Wetlands Protection Act due to severe erosion along a section of the line's rail bed and a collapsed culvert within the proposed project area. According to SEA, LCC contends that this section is causing fill to be discharged into a nearby wetland and waterway. LCC informed SEA that LCC issued an enforcement order on August 12, 2008, because CSXT had not taken any corrective action since it was made aware of the problem a year earlier. Accordingly, SEA recommends that a condition be imposed upon any decision granting abandonment authority requiring CSXT to consult with LCC regarding the enforcement order.

Comments to the EA were due on December 8, 2008. No comments were received by the due date. Accordingly, the environmental condition recommended by SEA in the EA will be imposed.

¹ By notice served and published in the Federal Register on May 30, 2002 (67 FR 37911), CSXT and New York Central Lines, LLC (NYC), were previously granted abandonment authority for the line under STB Docket Nos. AB-565 (Sub-No. 10X) and AB-55 (Sub-No. 616X). CSXT states that it is re-filing pursuant to 49 CFR 1152.29(e)(2) because the abandonment authority has lapsed. CSXT is NYC's successor by merger. See CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation, STB Finance Docket No. 33388 (Sub-No. 94) (STB served Nov. 7, 2003).

Based on SEA's recommendations, the proposed abandonment, if implemented as conditioned, 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 exemption of the abandonment of the rail line described above, and covered by the notice served and published in the Federal Register on November 20, 2008, is subject to the condition that, prior to commencement of any salvage activities, CSXT shall consult with LCC regarding LCC's enforcement order issued on August 12, 2008.
3. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary