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SERVICE DATE – SEPTEMBER 25, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 680X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–IN PORTSMOUTH
COUNTY, VA

Decided: September 24, 2007

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 0.50-mile rail line on its Southern Region, Florence Division, Portsmouth Subdivision, from railroad milepost SA 0.28 to railroad milepost SA 0.78, in Portsmouth, Portsmouth County, VA. Notice of the exemption was served and published in the Federal Register on August 27, 2007 (72 FR 49042). The exemption is scheduled to become effective on September 26, 2007.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on August 31, 2007. In the EA, SEA recommended two conditions. First, SEA noted that CSXT had not received a response to its inquiry to the Virginia Department of Environmental Quality – Coastal Zone Management Program (VDEQ) indicating whether the proposed abandonment affects land or water uses within a designated coastal zone. Therefore, SEA recommended a condition requiring that CSXT, prior to beginning any salvage activities, consult with VDEQ to determine whether state coastal management consistency certification is required and, if so, that the railroad be prohibited from performing any salvage activities until it obtains consistency certification pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 et seq. and the Board's environmental regulations at 49 CFR 1105.9.

Second, SEA stated that CSXT served its historic report on the Virginia Department of Historic Resources (SHPO). SEA also stated that the SHPO had not completed its review of the proposed abandonment. Therefore, SEA recommended that a condition be imposed requiring CSXT to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places (National Register) until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

Comments to the EA were due by September 14, 2007. SEA received one consultation response on the Environmental Report (ER) from VDEQ after issuance of the EA. Based on its review of the ER, VDEQ concludes that the proposed abandonment is consistent with the Virginia Coastal Resources Management Program. VDEQ advises that project activities must be carried out in strict accordance with all other applicable state, Federal, and local laws and

regulations. VDEQ states that, based on the information contained in the ER, it appears that the proposed activity would have no effect on fisheries management, subaqueous lands management, wetlands management, dunes management, point source pollution control, shoreline sanitation, and coastal lands management. VDEQ adds, however, that it has concerns with respect to enforceable policies in the areas of wetlands management, non-point source pollution control, and air pollution control. Accordingly, SEA now recommends that the proposed salvage condition be modified to no longer require that CSXT determine whether coastal management consistency certification is required, but instead to require that CSXT consult with VDEQ to address VDEQ's concerns about wetlands management, non-point source pollution control, and air pollution control.

Based on SEA's recommendation and modification, 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 notice served and published in the Federal Register on August 27, 2007, exempting the abandonment of the line described above, is subject to the conditions that CSXT shall: (1) consult with VDEQ prior to beginning any salvage activities to address VDEQ's concerns about wetlands management, non-point source pollution control, and air pollution control; and (2) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register until the section 106 process of the NHPA has been completed. CSXT shall report back to SEA regarding any consultations with the SHPO and the public. CSXT may not file its consummation notice or initiate any salvage activities (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed this condition.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary