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SERVICE DATE – JUNE 27, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 706X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–IN  
ERIE COUNTY, N.Y.

Decided: June 24, 2011

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F–Exempt Abandonments to abandon an approximately 0.56-mile rail line on its Northern Region, Albany Division, Buffalo Subdivision, known as the Erie Running Track, between milepost QCQ 5.02 near E. Ferry Street and milepost QCQ 5.58 near E. Delavan Avenue, in Buffalo, Erie County, N.Y. Notice of the exemption was served and published in the Federal Register on May 27, 2011 (76 Fed. Reg. 31,008). The exemption is scheduled to become effective on June 28, 2011.

The Board’s Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on June 3, 2011. In the EA, OEA indicated that it had not heard from the New York State Historic Preservation Office (SHPO) and, therefore, had not been able to consider the SHPO’s opinion before determining if the rail line may be potentially eligible for listing in the National Register of Historic Places (National Register). Accordingly, OEA recommended in the EA that CSXT be required 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) eligible for listing or listed in the National Register until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f. OEA also recommended that CSXT be required to report back to OEA regarding any consultations with the SHPO and the public, and that CSXT not be allowed to consummate the abandonment or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process had been completed and the Board had removed the Section 106 condition.

Comments to the EA were due by June 20, 2011. OEA states that, by letter filed June 6, 2011, CSXT submitted information from the SHPO indicating that, in the SHPO’s opinion, the proposed abandonment would have no effect upon cultural resources in or eligible for inclusion in the National Register. Therefore, OEA now has recommended that the Section 106 historic preservation condition previously recommended in the EA not be imposed.

There are no remaining environmental or historic preservation issues that have been raised by any party or identified by OEA. Therefore, a Finding of No Significant Impact under 49 C.F.R. § 1105.10(g) will be made pursuant to 49 C.F.R. § 1011.7(b)(9).

It is ordered:

1. Abandonment of the involved rail line will have no significant effect on the quality of the human environment and conservation of energy resources or on historic resources.
2. This decision is effective on its service date.

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