

37176  
DO

SERVICE DATE – JULY 13, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 667X)

CSX TRANSPORTATION, INC.–ABANDONMENT  
EXEMPTION–IN HARLAN COUNTY, KY

Decided: July 11, 2006

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 12.56-mile rail line on its Southern Region, Huntington Division-West, Cumberland Valley Subdivision, from milepost OWH-258.5 to the end of the track at milepost OWH-271.00 in Harlan County, KY. Notice of the exemption was served and published in the Federal Register on May 11, 2006 (FR 27530-31).<sup>1</sup>

In the decision served on June 9, 2006, the proceeding was reopened, and the exemption was made subject to several environmental conditions, including one that required CSXT to consult with the U.S. Fish and Wildlife Service (USFWS) regarding potential impacts from salvaging activities to the Federally listed threatened and endangered species that may occur in the vicinity of the line and report the results of these consultations in writing to the Board's Section of Environmental Analysis (SEA). By letter dated June 9, 2006, CSXT informed SEA that the USFWS has determined that the proposed abandonment will have no significant adverse impacts on Federally listed endangered or threatened species. As a result of this submission, the SEA recommends that the USFWS endangered species consultation condition be removed.

---

<sup>1</sup> The exemption was scheduled to become effective on June 10, 2006, unless stayed by the Board or a formal expression of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(2) was filed by May 22, 2006. On May 23, 2006, and June 8, 2006, Pardee & Curtin Realty LLC and Seaside Holdings, Inc., respectively, late-filed formal expressions of intent to file an offer of financial assistance (OFA) to purchase the entire line. Pardee also requested that CSXT provide it with the financial data and information necessary to determine the line's net liquidation value. By decision served June 9, 2006, the Board accepted Pardee's and Seaside's late-filed notices of intent, Pardee's request to toll was granted and the time for filing an OFA was extended to July 12, 2006, and the effective date of the exemption was extended to July 22, 2006. On June 16, 2006, Pardee requested that the Board toll the time period for submitting an OFA until July 20, 2006. By decision served June 29, 2006, the time period for Pardee and Seaside to file an OFA was tolled until July 20, 2006, and the effective date of the exemption was further postponed until July 30, 2006.

Accordingly, this proceeding will be reopened and the USFWS endangered species consultation condition will be removed.

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 endangered species condition imposed in the June 9, 2006 decision is removed.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary