

32904

SERVICE DATE - JULY 30, 2002

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-55 (Sub-No. 618)]

CSX Transportation, Inc.–Discontinuance–at Memphis, in Shelby County, TN

On July 10, 2002, CSX Transportation, Inc. (CSXT), filed with the Surface Transportation Board (Board) an application for permission to discontinue service over a 1.1-mile portion of its Midwest Region, Nashville Division, Memphis Terminal line between milepost ONI 224.00, at Memphis and milepost ONI 222.9 east of Memphis, in Shelby County, TN.<sup>1</sup> The line traverses U.S. Postal Service ZIP Codes 38111 and 38112. Applicant has indicated that the line includes the station of Memphis.

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<sup>1</sup> CSXT previously filed a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon the above line, plus an additional 12.24 miles of rail line, extending from milepost ONI 224.00 near Memphis, to milepost ONI 210.66 near Cordova. The Board denied the petition in CSX Transportation, Inc.–Abandonment Exemption–(Between Memphis and Cordova) in Shelby County, TN, STB Docket No. AB-55 (Sub-No. 590X) (STB served Dec. 12, 2001), finding that CSXT had failed to show that the current situation imposed a burden on it that outweighed the harm if the line were to be abandoned. The Board's denial of the petition was without prejudice to CSXT's refiling an appropriate application or a petition for exemption. On March 29, 2002, CSXT filed a petition under 49 U.S.C. 10502 for exemption from 49 U.S.C. 10903 in CSX Transportation, Inc.–Discontinuance Exemption–(Between East of Memphis and Cordova) in Shelby County, TN, STB Docket No. AB-55 (Sub-No. 615X) to discontinue service over the 12.24-mile segment of the line between milepost ONI 222.9, east of Memphis, and milepost ONI 210.66, near Cordova, at the end of the line. The Board granted the petition by decision served on July 17, 2002.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it. The applicant's entire case for discontinuance (case-in-chief) was filed with the application.

The line of railroad has appeared on CSXT's system diagram map or has been included in its narrative in category 1 since March 6, 2002.

The interest of railroad employees will be protected by the conditions set forth in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

Any interested person may file with the Board written comments concerning the proposed discontinuance or protests (including the protestant's entire opposition case), by August 26, 2002. Because this is a discontinuance proceeding, and not an abandonment, trail use/rail banking, and public use requests are not appropriate. Also, only offers of financial assistance (OFA) under 49 U.S.C. 10904 to subsidize (not purchase) the line will be entertained.

Persons opposing the discontinuance who wish to participate actively and fully in the process should file a protest. Persons who may oppose the discontinuance but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons seeking information concerning the filing of protests should refer to 49 CFR 1152.25.

In addition, a commenting party or protestant may provide: (i) an OFA to subsidize rail service under 49 U.S.C. 10904 (due 120 days after the application is filed or 10 days after the

application is granted by the Board, whichever occurs sooner); and (ii) recommended provisions for protection of the interests of employees.

The line sought to be discontinued will be available for subsidy for continued rail use, if the Board decides to permit the discontinuance, in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR 1152.27). Each OFA must be accompanied by a \$1,100 filing fee. See 49 CFR 1002.2(f)(25). No subsidy arrangement approved under 49 U.S.C. 10904 shall remain in effect for more than 1 year unless otherwise mutually agreed by the parties (49 U.S.C. 10904(f)(4)(B)). Applicant will promptly provide upon request to each interested party an estimate of the subsidy required to keep the line in operation. The carrier's representative to whom inquiries may be made concerning subsidy terms is set forth below.

All filings in response to this notice must refer to STB Docket No. AB-55 (Sub-No. 618) and must be sent to: (1) Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001; and (2) Louis E. Gitomer, Esq., Ball Janik, LLP, 1455 F St., N.W., Suite 225, Washington, DC 20005. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the discontinuance proceeding. 49 CFR 1104.12(a).

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues

may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1552.

[TDD for the hearing impaired is available at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in discontinuance proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

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"WWW.STB.DOT.GOV."

Decided: July 24, 2002.

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

Vernon A. Williams

Secretary