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SEC

SERVICE DATE - FEBRUARY 25, 1998

SURFACE TRANSPORTATION BOARD

DECISION<sup>1</sup>

STB Docket No. AB-55 (Sub-No. 521X)

CSX TRANSPORTATION, INC.--ABANDONMENT EXEMPTION--  
IN FULTON COUNTY, GA

STB Docket No. AB-55 (Sub-No. 555X)

CSX TRANSPORTATION, INC.--ABANDONMENT EXEMPTION--  
IN ALACHUA COUNTY, FL

Decided: February 23, 1998

By decision served November 21, 1997, in STB Docket No. AB-55 (Sub-No. 521X), the Board granted CSX Transportation, Inc. (CSXT), an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a 0.58-mile portion of its railroad line known as the Atlanta Terminal Subdivision, extending from milepost 864.04 near Wheeler Street to milepost 864.62 at the end of the track at Simpson Street, in Fulton County, GA. The exemption became effective on December 21, 1997. On December 17, 1997, the Board served a decision and notice of interim trail use or abandonment (NITU) in this proceeding which established a 180-day period for the City of Atlanta to negotiate an interim trail use/rail banking agreement with CSXT and also imposed a concurrent 180-day public use condition. On January 26, 1998, CSXT filed a letter stating that the line had been abandoned "subject only to negotiations with the City of Atlanta for the use of this right-of-way for trail purposes."

In STB Docket No. AB-55 (Sub-No. 555X), CSXT filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon approximately 1.41 miles of its line of railroad between milepost AR-716.89 and milepost AR-715.48, in High Springs, Alachua County, FL. Notice of the exemption was served and published in the Federal Register on November 24, 1997 (62 FR 62667-68), and the exemption became effective on December 24, 1997. On January 8, 1998, the Board served a NITU in this proceeding which established a 180-day period for the City of High Springs to negotiate an interim trail use/rail banking agreement with CSXT and also

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<sup>1</sup> These proceedings are not consolidated. A single decision is being issued for both proceedings for administrative convenience.

imposed a concurrent 180-day public use condition. On January 26, 1998, CSXT filed a letter stating that the line had been abandoned “[e]xcept to the extent that CSXT is negotiating with the City of High Springs, Florida for the use of the right-of-way for interim trail purposes. . . .”

The Board’s regulations adopted in Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903, STB Ex Parte No. 537 (STB served Dec. 24, 1996, and June 27, 1997), include a provision at 49 CFR 1152.29(e)(2), that is designed to provide clear evidence of when an authorized abandonment has been consummated and thus is designed to avoid litigation over whether or not a line has been abandoned. Section 1152.29(e)(2) requires that:

A railroad that receives authority from the Board to abandon a line (in a regulated abandonment proceeding under 49 U.S.C. 10903, or by individual or class exemption issued under 49 U.S.C. 10502) shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line (e.g., discontinued operations, salvaged the track, canceled tariffs, and intends that the property be removed from the interstate rail network). The notice shall provide the name of the STB proceeding and its docket number, a brief description of the line, and a statement that the railroad has consummated, or fully exercised, the abandonment authority on a certain date. The notice shall be filed within 1 year of the service date of the decision permitting the abandonment (assuming that the railroad intends to consummate the abandonment). Notices will be deemed conclusive on the point of consummation if there are no legal or regulatory barriers to consummation (such as outstanding conditions, including Trails Act conditions). . . .

The trail use and public use conditions imposed in these proceedings are regulatory barriers to consummation and, accordingly, CSXT’s letters cannot provide valid notice of the consummation of the proposed abandonments. Therefore, the letters will be rejected.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

STB Docket No. AB-55 (Sub-No. 521X), et al.

1. The letters filed on January 26, 1998, in STB Docket No. AB-55 (Sub-No. 521X) and STB Docket No. AB-55 (Sub-No. 555X), respectively, are rejected.

2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary