

SURFACE TRANSPORTATION BOARD
DECISION

Docket No. AB 55 (Sub-No. 401)

CSX TRANSPORTATION, INC.—ABANDONMENT—BETWEEN DELPHI AND
FRANKFORT, IND.

Decided: September 24, 2012

This decision reopens the proceeding and modifies the existing Section 106 historic preservation condition imposed in this proceeding.

By certificate and decision served on January 3, 1992 (January 1992 decision), the Board's predecessor, the Interstate Commerce Commission (ICC), granted abandonment authority under 49 U.S.C. § 10903 for CSX Transportation, Inc. (CSXT) to abandon its 25.28-mile line of railroad between milepost QA-112.22 at Delphi and milepost QA-137.50 at Frankfort, in Carroll and Clinton Counties, Ind. (the line). The January 1992 decision also imposed a historic preservation condition under Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470 (NHPA). That condition, recommended by the ICC's Section of Energy and Environment (SEE),¹ requires CSXT to retain its interest in and take no steps to alter the historic integrity of bridges 113.0 and 121.5 spanning Deer Creek and Wildcat Creek, and the Depot at Frankfort until the Section 106 process of the NHPA is completed.

In a Supplemental Final Environmental Assessment dated July 30, 2012, OEA states that CSXT recently was contacted by several groups with concerns about the Wildcat Creek Bridge located at milepost 121.5. According to OEA, the Indiana Department of Transportation and the U.S. Army Corps of Engineers have requested that CSXT remove the Wildcat Bridge because, those agencies state, it has become a danger to navigation and public safety. OEA states that CSXT also believes that the Wildcat Creek Bridge has become a liability and needs to be dismantled.

After consulting with the Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology (SHPO), OEA has determined that the demolition or dismantling of the Wildcat Creek Bridge would be an adverse effect to a historic property. As a result, OEA consulted with the SHPO, CSXT, and interested local historic groups to develop a Memorandum of Agreement (MOA), pursuant to the regulations implementing Section 106, stipulating the resolution of adverse effects to the Wildcat Creek Bridge. In the MOA, CSXT agrees to, among other things, transfer, within two years, ownership of the Deer Creek Bridge located at milepost 113.0 and the 0.43-mile northern approach to the Deer Creek Bridge to a qualified trails group in exchange for \$1.00, thus mitigating the loss of the Wildcat Creek Bridge. The MOA was

¹ SEE is now the Office of Environmental Analysis (OEA).

executed on July 9, 2012. OEA states that the filing of the MOA with the Advisory Council on Historic Preservation completes the Board's compliance responsibilities under Section 106 for the Wildcat Creek Bridge.

As to the Depot at Frankfort, OEA states that CSXT informed OEA that it was burned by vandals in 1993 and razed and that another building is now on the property.

For the foregoing reasons, OEA recommends that the Section 106 historic preservation condition imposed in the January 1992 decision be modified to remove the Wildcat Creek Bridge and the Depot at Frankfort from the condition and to replace the existing Section 106 historic preservation condition with a new condition that reads: "CSXT shall retain its interest in and take no steps to alter the historic integrity of the bridge at milepost 113.0 spanning Deer Creek (the Area of Potential Effect) until the Section 106 process of the NHPA has been completed. CSXT shall report back to OEA regarding any consultations with the SHPO, any other Section 106 consulting parties that have been identified, and the public. CSXT may not relinquish its interest in or take any steps to alter the historic integrity of the bridge until the Section 106 process has been completed and the Board has removed this condition."²

Accordingly, this proceeding will be reopened and the Section 106 historic preservation condition imposed in the January 1992 decision will be modified as recommended by OEA. Based on OEA's recommendation, 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 Section 106 historic preservation condition imposed in the January 1992 decision is replaced with the condition that: CSXT shall retain its interest in and take no steps to alter the historic integrity of the bridge at milepost 113.0 spanning Deer Creek (the Area of Potential Effect) until the Section 106 process of the NHPA has been completed. CSXT shall report back to OEA regarding any consultations with the SHPO, any other Section 106 consulting parties that have been identified, and the public. CSXT may not relinquish its interest in or take any steps to alter the historic integrity of the bridge until the Section 106 process has been completed and the Board has removed this condition.

² Because the revised condition imposed in this decision prohibits CSXT from relinquishing the Deer Creek Bridge until the condition is removed, should CSXT reach an agreement with a qualified trails group for the transfer of the bridge, CSXT will need to seek and obtain removal of the revised condition before that transfer can be consummated.

3. This decision is effective on its date of service.

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