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SERVICE DATE – NOVEMBER 1, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 614X)

CSX TRANSPORTATION, INC.–ABANDONMENT  
EXEMPTION–IN RICHMOND COUNTY, GA

Decided: October 31, 2006

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon approximately 1.60 miles of railroad from Valuation Station 0+00 at milepost ANS 0.2 to Valuation Station 84+44, in Augusta, Richmond County, GA.<sup>1</sup> By decision served July 5, 2002, the proceeding was reopened at the request of the Board’s Section of Environmental Analysis (SEA) and the exemption was made subject to the condition that CSXT consult with the Georgia Department of Natural Resources, Historic Preservation Division (HPD), to resolve outstanding historic resource concerns and retain its interest in and take no steps to alter the historic integrity of the line until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f. By decision served July 16, 2002, the proceeding was reopened and the Augusta-Richmond County, GA, was authorized to negotiate an interim trail use/rail banking agreement with CSXT, pursuant to section 8(d) of the National Trails System Act 16, U.S.C. 1247(d). At the request of CSXT, the negotiating period was extended several times; the latest extension, granted by decision served March 7, 2006, extended the negotiation period until August 22, 2006.<sup>2</sup> The March 7, 2006 decision also extended the deadline for CSXT to file its notice of consummation until October 21, 2006.

CSXT submitted a notice of consummation to the Board on October 16, 2006. On October 23, 2006, however, CSXT filed a letter, stating that it has determined, upon further review, that it has not satisfied fully the condition pertaining to historic preservation matters imposed in the July 5, 2002 decision. CSXT requests that the Board allow it to retract the consummation letter and requests that the Board indicate that the abandonment has not been consummated and confirm that the Board retains jurisdiction over the line.

The Board’s regulations at 49 CFR 1152.29(e)(2) require the filing of a notice of consummation within 1 year from the service date of the decision authorizing abandonment, but

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<sup>1</sup> Notice of the exemption was served and published in the Federal Register on June 6, 2002 (67 FR 39097-98).

<sup>2</sup> The trail use negotiating period has evidently expired without a trail use agreement having been reached.

only if there are no legal or regulatory barriers to consummation. Because the historic preservation condition had not been satisfied or removed at the time CSXT filed its letter of consummation, CSXT was precluded from fully abandoning the line at that time. Accordingly, CSXT's request for permission to retract the consummation letter will be granted. The line remains subject to the Board's jurisdiction.

Regarding the historic preservation condition, SEA has advised that, on October 23, 2006, CSXT submitted a letter from HPD stating that the proposed abandonment would have no adverse effect on historic properties and that the section 106 consultation condition has been completed. As a result, SEA recommends that the previously imposed section 106 condition imposed in the July 5, 2002 decision be removed. Based on SEA's recommendation, the section 106 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. CSXT's request for permission to retract the consummation letter is granted, and the line remains subject to the Board's jurisdiction.
3. Upon reconsideration, the section 106 condition historic preservation condition imposed in the decision served July 5, 2002, is removed.
4. CSXT may re-file its notice of consummation by December 31, 2006 (60 days from the service date of this decision).
5. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary