

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35674

CSX TRANSPORTATION, INC.  
—TEMPORARY TRACKAGE RIGHTS EXEMPTION—  
ALABAMA GREAT SOUTHERN RAILROAD COMPANY AND  
MERIDIAN SPEEDWAY, LLC

Digest:<sup>1</sup> The Board waives the requirement that CSX Transportation, Inc. must file a notice of exemption 30 days prior to consummating the requested temporary overhead trackage rights transaction.

Decided: September 7, 2012

On September 5, 2012, CSX Transportation, Inc. (CSXT) filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(8) to obtain temporary overhead trackage rights over certain lines of the Alabama Great Southern Railroad Company (AGS) and Meridian Speedway, LLC (Meridian Speedway), in Alabama, Mississippi, and Louisiana. Specifically, CSXT is acquiring overhead trackage rights from AGS over: (1) AGS South District between the connection of AGS and CSXT in Birmingham, Ala., near 14<sup>th</sup> Street at milepost 143.5 and the connection with the trackage of The Kansas City Southern Railway Company (KCSR) near 27<sup>th</sup> Avenue in Meridian, Miss., at milepost 295.4; (2) AGS NO & NE District between the connection with the trackage of Meridian Speedway at Meridian, Miss., 27<sup>th</sup> Avenue, milepost NO-0.4, and New Orleans, La., Oliver Junction, milepost 194.1; and (3) New Orleans Terminal Back Belt Line between New Orleans, La., Oliver Junction, milepost 7.9-NT, and East City Junction at milepost 3.8-NT and between East City Junction at milepost 3.5-A and CN/IC connection in Shrewsbury, La., milepost 0.0-A, a distance of 352.8 miles. CSXT also is acquiring temporary overhead trackage rights from Meridian Speedway over the connection between AGS and Meridian Speedway near 27<sup>th</sup> Avenue in Meridian, Miss., at milepost 295.4 and the connection between Meridian Speedway and AGS NO & NE District at milepost NO-0.4, a distance of 0.4 miles. The lines in question total 353.2 miles of track. Because Board regulations at 49 C.F.R. § 1180.4(g) require that a notice of exemption be filed at least 30 days before the covered transaction can be consummated, the earliest date CSXT could consummate the transaction by application of the rule would be October 5, 2012.

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<sup>1</sup> The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

Concurrently with the filing of the notice of exemption, CSXT submitted a request that we waive the requirement at 49 C.F.R. § 1180.4(g) so that the notice of exemption could become effective immediately. CSXT explains that the temporary trackage rights will permit it to resume overhead rail service between Pascagoula, Miss., and New Orleans, La., in the aftermath of Hurricane Isaac. CSXT states that as a result of Hurricane Isaac, portions of its own track along the Gulf Coast have been damaged and put out of service between Pascagoula, Miss., and New Orleans, La., and CSXT does not expect the line to be operable in the immediate future.

We will grant the waiver from 49 C.F.R. § 1180.4(g) and allow the exemption to become effective immediately. We will also publish a notice of the exemption and this waiver grant in the Federal Register. The waiver will allow CSXT to resume service between Pascagoula, Miss., and New Orleans, La., while its own track is repaired. While we are imposing the labor protective conditions required by Norfolk and Western Railway—Trackage Rights—Burlington Northern, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease and Operate—California Western Railroad, 360 I.C.C. 653 (1980) (N&W), we note that CSXT reports that the unions representing employees of CSXT and AGS have agreed to waive the 20-day notice period under N&W. Any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth and Ammon, in Bingham and Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

Accordingly, the exemption is effective immediately.

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

It is ordered:

1. The request for waiver is granted.
2. The temporary trackage rights exemption covered by the verified notice of exemption filed in this proceeding will be effective on the service date of this decision.
3. The exemption is subject to the labor protective conditions required by Norfolk and Western Railway—Trackage Rights—Burlington Northern, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease and Operate—California Western Railroad, 360 I.C.C. 653 (1980) (N&W), except that CSXT reports that the unions representing employees of CSXT and AGS have agreed to waive the 20-day notice period under N&W. Any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth and Ammon, in Bingham and Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).
4. This decision is effective on its service date.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.