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SERVICE DATE - JUNE 12, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 8X)

NEW YORK CENTRAL LINES, LLC–ABANDONMENT
EXEMPTION–IN DELAWARE COUNTY, OH

Decided: June 7, 2002

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) (collectively, applicants), filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments and Discontinuances of Service for NYC to abandon and CSXT to discontinue service over approximately 1.5 miles of railroad from milepost QED 114.1 to milepost QED 115.6 in Delaware, Delaware County, OH. Notice of the exemption was served and published in the Federal Register on April 12, 2002 (67 FR 18053-54)¹ and the exemption was scheduled to take effect on May 14, 2002.² The notice indicated that overhead traffic would be diverted to another CSXT rail line with the construction of a track connection. Footnote 2 of the Board’s notice stated that the track connection had not yet been constructed, that CSXT was negotiating an agreement with the city of Delaware and the Ohio Rail Development Commission (ORDC) wherein the ORDC would contribute funds for the construction of the connection track in exchange for the closure of the five grade crossings on the line, and that CSXT would petition the Board for approval of the construction of the connection track, which at that point was likely to be constructed on CSXT property. The notice also reported CSXT’s statement that the proposed consummation date of the abandonment is March 22, 2003, because the line is used for overhead traffic, and that CSXT does not intend to consummate the abandonment until such time as the connection track construction is complete.

On May 21, 2002, CSXT filed a letter requesting clarification of one aspect of the Board’s April 12 notice. CSXT correctly observes that its notice of exemption had indicated that it would petition the Board for approval of the construction of the connection track “to the extent required” but

¹ The notice issued April 12, 2002, embraced STB Docket No. AB-55 (Sub-No. 608), CSX Transportation, Inc.–Discontinuance of Service Exemption-in Delaware County, OH.

² By decision served May 13, 2002, the exemption was made subject to environmental and historic preservation conditions.

that the Board's notice, at footnote 2, had omitted the words "to the extent required." CSXT states that it does not believe that Board approval is necessary for the construction of the connection track because an old dilapidated connection track currently exists at the location and CSXT would therefore merely be refurbishing an old connection on its property. CSXT requests that the Board correct the footnote 2 reference as to its intentions with respect to the construction of the connection track.

The request will be granted and the last sentence of footnote 2 will be revised to read: "CSXT states that, to the extent required, it will petition the Board for approval of the construction of the connection track, which at this point is likely to be constructed on CSXT property." The notice will otherwise remain unchanged. This correction is being issued to accurately reflect CSXT's statement and intentions. This decision should not be construed as an expression of agreement or disagreement with CSXT's position regarding whether Board approval will be required for the construction of the connection track.

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

It is ordered:

1. The last sentence of footnote 2 of the notice served on April 12, 2002, is revised to read: "CSXT states that, to the extent required, it will petition the Board for approval of the construction of the connection track, which at this point is likely to be constructed on CSXT property."
2. The notice otherwise remains unchanged.
3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary