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SERVICE DATE - JULY 2, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 571X)

CSX TRANSPORTATION, INC.--ABANDONMENT EXEMPTION--  
IN SAGINAW COUNTY, MI

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: July 1, 1999

By decision served on June 18, 1999, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by CSX Transportation, Inc. (CSXT), of a 2.29-mile portion of its line of railroad known as the Detroit Service Lane, Dean Subdivision, extending between milepost CBE-7.80 and milepost CBE-10.09, in Paines, Saginaw County, MI, subject to standard employee protective conditions and an environmental condition.<sup>1</sup> The exemption was scheduled to become effective on July 18, 1999, unless an offer of financial assistance (OFA) was filed on or before June 28, 1999.

On June 28, 1999, Mid-Michigan Railroad, Inc. (MMRR), timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27 to purchase the line for \$150,000.<sup>2</sup>

An OFA to acquire a line for continued rail service need not be detailed, but an offeror must show that it is financially responsible and that the offer is reasonable. See Conrail Abandonments Under NERSA, 365 I.C.C. 472 (1981).

MMRR is a subsidiary of RailTex, Inc. (RailTex), which it describes as the leading operator of short line railroads in North America. MMRR states that it does not prepare independent financial statements but, rather, its statements are consolidated with those of RailTex and the other RailTex subsidiaries. To demonstrate its financial responsibility, MMRR submits, as Exhibit A, RailTex consolidated statements of income for 1996, 1997, and 1998, and RailTex consolidated balance sheets for 1997 and 1998. The financial information submitted shows that MMRR is financially responsible.

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<sup>1</sup> Notice was published in the Federal Register on March 19, 1999 (64 FR 13629-30).

<sup>2</sup> MMRR notes that, on January 15, 1999, it entered into a letter of intent with CSXT whereby the parties agreed upon the value of the line. MMRR states that the purchase price will be paid either in cash or through a property swap of a line of its railroad that has been approved for abandonment in Mid-Michigan Railroad, Inc.--Abandonment Exemption--in Kent and Ionia Counties, MI, STB Docket No. AB-364 (Sub-No. 4X) (STB served May 26, 1999).

Because MMRR is financially responsible and has offered financial assistance, the effective date of the exemption authorizing abandonment will be postponed.

Any person filing a request to set terms and conditions must pay the requisite filing fee, set forth at 49 CFR 1002.2(f)(26), which currently is \$14,800. An original and 10 copies of the request should be submitted along with the fee, in an envelope bearing the docket number of the proceeding, along with the words "Attention: Application Unit, Request to Set Terms and Conditions" in the lower left hand corner.

Appeals to this decision are governed by 49 CFR 1011.2(a)(7). Any appeal must be filed within 10 days of the service date of this decision and will be heard by the entire Board.

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

It is ordered:

1. The effective date of the decision authorizing abandonment is postponed in order to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed.
2. If CSXT and MMRR cannot agree on the purchase price of the line, either party may request the Board to establish the terms and conditions of the purchase on or before July 28, 1999. If no agreement is reached and no request is submitted by that date, the Board will serve a decision vacating this decision and allowing the abandonment exemption to become effective.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary