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SERVICE DATE – JANUARY 21, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 645X)

CSX TRANSPORTATION, INC.–ABANDONMENT
EXEMPTION–IN FLOYD COUNTY, KY

Decided: January 19, 2005

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon service over approximately 9.1 miles of railroad between milepost COQ-1.0 at McNalley and milepost COQ-10.1 near East David, in Floyd County, KY. Notice of the exemption was served and published in the Federal Register on February 9, 2004 (69 FR 6014).

On March 9, 2004, a decision and notice of interim trail use or abandonment (NITU) was served,¹ and in that decision the exemption was made subject to the condition that CSXT retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

The Board’s Section of Environmental Analysis (SEA) states that, in a letter dated December 20, 2004, the Kentucky Heritage Council (SHPO) indicated that the bridges associated with the line are not eligible for the National Register of Historic Places. However, the SHPO states that a segment of the line lies within the Middle Creek National Battlefield (Battlefield), and the Battlefield is a National Historic Landmark (NHL). SEA states that NHLs are nationally significantly historic places designed by the Secretary of Interior because they possess exceptional value or quality

¹ The negotiation period under the NITU was scheduled to expire on September 6, 2004. On September 7, 2004, CSXT filed a request to extend the negotiation period under the NITU and also requested that the Board extend the consummation notice filing deadline. By decision served on September 14, 2004, the negotiation period under the NITU was extended until March 6, 2005, and the consummation deadline was extended until April 5, 2005.

in illustrating or interpreting the heritage of the United States.² SEA states, that a staff member consulted with the SHPO and CSXT to determine what effect, if any, the abandonment might have on the Battlefield. In an oral conversation with an SEA staff member, the SHPO has expressed concern regarding long-term preservation of the property. In particular, the SHPO is concerned that future development of the property could affect the appearance of the Battlefield landscape. However, the SHPO stated that it would not oppose continued rail use on the line or the creation of a trail on the property. A representative for CSXT, states that CSXT intends to lease the line for continued rail use following consummation of the abandonment. Thus, there will be little if any change in the character of the property's use or physical features. However, the SHPO stipulates in its letter that, if the line is ever taken out of rail service or use, the line should first be offered to a local government or nonprofit group to be converted to a pedestrian or bike trail. The SHPO has determined that, if the line is abandoned with this stipulation, then the proposed undertaking would have no adverse effect on the Battlefield. SEA staff member states that, in a conversation with a CSXT representative, CSXT states that it would voluntarily abide by the stipulation. Therefore, SEA recommends that the section 106 condition imposed in the March 9, 2004 decision be removed.³

Accordingly, the proceeding will be reopened and the previously imposed historic 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. Upon reconsideration, the section 106 condition imposed in the decision served March 9, 2004, is removed and CSXT is directed to abide by the stipulations recommended by the SHPO.

² See the National Park Service's National Historic Landmark Program at <http://www.cr.nps.gov/nhl>.

³ The National Geodetic Survey condition imposed in that decision remains.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary