

37323
SEC

SERVICE DATE – SEPTEMBER 11, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34893

THE CHICAGO, LAKE SHORE AND SOUTH BEND RAILWAY COMPANY
– ACQUISITION AND OPERATION EXEMPTION –
NORFOLK SOUTHERN RAILWAY COMPANY

Decided: September 8, 2006

On June 14, 2006, The Chicago, Lake Shore and South Bend Railway Company (CLS&SB) filed a verified notice of exemption pursuant to 49 CFR 1150.31 et seq. to acquire from Norfolk Southern Railway Company (NSR) and to operate approximately 3.2 miles of rail line in the vicinity of South Bend, IN. The exemption took effect on June 21, 2006. Notice of the transaction was served and published on July 6, 2006.

Petitions to revoke were filed by City of South Bend, IN (City), the Sisters of the Holy Cross, Inc. (Sisters), and the Brothers of Holy Cross, Inc. (Brothers). NSR subsequently informed the Board that it would not sell the line, and it suggested that the exemption be dismissed. This was followed by a joint request by the Brothers and Sisters and a request by the City to dismiss the proceeding as moot. CLS&SB responded requesting that the proceeding be held in abeyance to allow the parties to resolve their differences.

CLS&SB's motion to hold the proceeding in abeyance and the motions to dismiss, filed by the Brothers and Sisters and by the City, were denied in a decision served on August 24, 2006. Instead, CLS&SB and the American Short Line and Regional Railroad Association (ASLRRA), an intervener, were granted an extension to September 6, 2006, to file replies.

On September 5, 2006, CLS&SB filed a letter requesting leave to withdraw the notice of exemption without prejudice. According to CLS&SB, NSR concurs in the request. The request will be granted. As a result, the exemption in this proceeding will be vacated, thus rendering moot any pending petitions to revoke.

It is ordered:

1. CLS&SB's request for leave to withdraw the notice of exemption filed in this proceeding without prejudice is granted and the exemption in this proceeding is therefore vacated.

2. This proceeding is discontinued.
3. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary