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SERVICE DATE - APRIL 20, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-876X

R.J. CORMAN EQUIPMENT COMPANY, LLC—ABANDONMENT EXEMPTION—IN
JOHNSON, MAGOFFIN AND BREATHITT COUNTIES, KY

STB Docket No. AB-875X

R.J. CORMAN RAILROAD COMPANY/BARDSTOWN LINE—DISCONTINUANCE OF
SERVICE EXEMPTION—IN JOHNSON, MAGOFFIN AND BREATHITT COUNTIES, KY

Decided: April 19, 2005

On September 7, 2004, R.J. Corman Equipment Company Equipment LLC (RJCE) and R.J. Corman Railroad Company/Bardstown Line (RJCR) (collectively, Corman or petitioner) jointly filed a petition seeking an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903. RJCE sought to abandon, and RJCR sought to discontinue service over, a line of railroad known as the Dawkins Line, extending from milepost 0.05 at Dawkins, KY, to the end of the track at milepost 36.13 near Evanston, KY, a distance of approximately 36.08 miles in Johnson, Magoffin and Breathitt Counties, KY. By decision and notice of interim trail use or abandonment served on December 23, 2004 (December 2004 decision), the petition for exemption was granted subject to certain conditions, including the condition that RJCE 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 or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470(f) (NHPA).

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the section 106 process of the NHPA at 36 CFR 800, SEA reviewed the proposed project and determined that the abandonment would not affect historic properties listed in or eligible for inclusion in the National Register of Historic Places. On February 17, 2005, the documentation for this finding was sent to the Kentucky Heritage Council (the State Historic Preservation Office or SHPO).

In a letter dated March 8, 2005, the SHPO concurred with SEA's conclusion that no historic properties would be affected by this undertaking. Therefore, SEA states that, in accordance with 36 CFR 800.4(d), the Board's responsibilities under section 106 are fulfilled.

Accordingly, SEA recommends that the previously imposed historic preservation condition be removed.¹

Accordingly, the proceeding will be reopened and the previously imposed historic preservation 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 historic preservation condition imposed in the December 23, 2004 decision is removed.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

¹ The December 2004 decision also imposed standard employee protective conditions, and five other conditions that required RJCE to: (1) leave intact all of the right-of-way, including bridges, trestles, culverts, and tunnels (except track, ties, and signal equipment) for a period of 180 days from the effective date of the decision and notice to enable any state or local government agency or any other interested person to negotiate the acquisition of the line for public use; (2) comply with the terms and conditions for implementing trail use/rail banking; (3) if there are any planned activities which would disturb or destroy any of the geodetic station markers on the line, contact the National Geodetic Survey not less than 90 days in advance of such activities to plan for their relocation; (4) follow best management practices during salvage activities to prevent erosion and nonpoint water pollution; and (5) prior to commencement of any salvage activities, contact Johnson County to discuss its concerns regarding water flow in streams and creeks. Those conditions remain in effect.