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SERVICE DATE – DECEMBER 18, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 699X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN MCMINN  
COUNTY, TN

Decided: December 17, 2009

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 0.22-mile line of railroad on CSXT's Southern Region, Huntington - West Division, KD Subdivision, extending from milepost OKW 333.40 to milepost OKW 333.62, in Athens, McMinn County, TN. Notice of the exemption was served and published in the Federal Register on October 9, 2009 (74 FR 52294). The exemption became effective on November 10, 2009.

By decision served on November 9, 2009 (November 9, 2009 decision), the proceeding was reopened at the request of the Board's Section of Environmental Analysis (SEA) and the exemption was made subject to the conditions that CSXT shall: (1) (a) retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places (generally, 50 years old or older) until the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed; (b) report back to SEA regarding any consultations with the Tennessee State Historic Preservation Office (SHPO) and any other section 106 consulting parties; and (c) not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed this condition; and (2) keep intact the right-of-way, including bridges, trestles, culverts, and tunnels, for a period of 180 days commencing from the November 10, 2009 effective date of the exemption (until May 9, 2010), to enable any state or local government agency, or other interested person, to negotiate the acquisition of the line for public use.<sup>1</sup>

By letter filed on December 2, 2009, CSXT requests removal of the section 106 historic preservation condition imposed in the November 9, 2009 decision. CSXT attaches to its letter correspondence dated November 23, 2009, from the SHPO wherein the SHPO indicates that there are no National Register of Historic Places listed or eligible properties affected by the

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<sup>1</sup> By decision and notice served on November 25, 2009, the proceeding was again reopened and modified to implement interim trail use/rail banking for a period running concurrently with the 180-day public use condition already imposed.

proposed abandonment. Therefore, based on the information provided, SEA recommends that the section 106 historic preservation condition imposed in the November 9, 2009 decision be removed. Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed. The public use condition remains in effect until May 9, 2010.

This action 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 November 9, 2009 decision is removed.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.