

SERVICE DATE - JANUARY 30, 1997

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB-55 (Sub-No. 250X)

CSX TRANSPORTATION, INC. - ABANDONMENT EXEMPTION -
FAYETTE AND NICHOLAS COUNTIES, WV

Decided: January 28, 1997

A notice of exemption under 49 CFR Subpart F--Exempt Abandonments served on July 6, 1988, and published in the Federal Register on July 11, 1988 (53 FR 26122), exempted from regulation the abandonment by CSX Transportation, Inc. (CSXT) of its 8.57-mile line of railroad between milepost 0.0 at Rich Creek Jct., and milepost 8.57 at the end of its Rich Creek Subdivision, in Fayette and Nicholas Counties, WV. Subsequently, CSXT agreed to an offer of financial assistance by Imperial Colliery Company (Imperial) to subsidize the line between milepost 0.0 and station 270+50, a distance of approximately 5.15 miles. The effectiveness of the notice of exemption authorizing the abandonment over the subsidized portion of the line has been stayed during the period that the line has been subsidized.¹

By letter filed January 10, 1997, CSXT and Imperial jointly request reinstatement of the notice of exemption in this proceeding authorizing CSXT to abandon its Rich Creek Subdivision between milepost 0.0 and station 270+50. These two petitioners state that they have reached an agreement for the sale of these rail properties to Imperial, subsequent to the abandonment authorization becoming effective. CSXT and Imperial therefore wish to terminate the subsidy arrangement.

Our rules at 49 CFR 1152.27(j) provide that a subsidizer may discontinue a subsidy by giving 60 days' notice to all parties to the proceeding and by the carrier requesting the Board to issue a decision vacating the decision that postponed the effective date of the notice of exemption. Because the line has carried no traffic for over 10 years, it appears unlikely that anyone else would desire to subsidize the line. We will, therefore, waive the 60-day notice requirement. Accordingly, under 49 CFR 1152.27(j), the financial assistance process is terminated, the October 20, 1988 decision staying the effective date of, and partially revoking, the exemption will be vacated, and the exemption will be made effective immediately.

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

¹ The notice of exemption for the subsidized portion of the line was stayed by a decision served October 20, 1988. The notice of exemption for the remainder of the line became effective on October 19, 1988. CSXT exercised its abandonment authority on February 10, 1991.

It is ordered:

1. The 60-day notice requirement of 49 CFR 1152.27(j) is waived.

2. The decision served on October 20, 1988, is vacated to the extent that it partially revoked the notice of exemption and stayed its effective date, with respect to that part of the line between milepost 0.0 and station 270+50.

3. The notice of exemption served on July 6, 1988, and published on July 11, 1988, with respect to that part of the line between milepost 0.0 and station 270+50, is reinstated and made effective immediately.

4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary