

21389 SERVICE DATE - JANUARY 10, 1997
FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-55 (Sub-No. 538X)]

CSX Transportation, Inc.--Abandonment Exemption--in Fayette
and Nicholas Counties, WV

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon approximately 15.27 miles of its line of railroad between milepost CAF-43.7, Valuation Station 1240+00, at Russ Junction and milepost CAF-58.97, Valuation Station 436+00, at Peters Junction, in Fayette and Nicholas Counties, WV.

CSXT has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR

1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 9, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29³ must be

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² See Exempt. of Rail Abandonment--Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

³ The Board will accept late-filed trail use requests as long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

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filed by January 21, 1997. Petitions to reopen or requests
for public use conditions under 49 CFR 1152.28 must be filed
by January 30, 1997, with: Office of the Secretary, Case
Control Branch, Surface Transportation Board, 1201
Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be
sent to applicant's representative: Charles M. Rosenberger,
Senior Counsel, 500 Water Street, J150, Jacksonville, FL
32202.

If the verified notice contains false or misleading
information, the exemption is void ab initio.

CSXT has filed an environmental report which addresses
the abandonment's effects, if any, on the environment and
historic resources. The Section of Environmental Analysis
(SEA) will issue an environmental assessment (EA) by
January 15, 1997. Interested persons may obtain a copy of
the EA by writing to SEA (Room 3219, Surface Transportation
Board, Washington, DC 20423) or by calling Elaine Kaiser,
Chief of SEA, at (202) 927-6248. Comments on environmental
and historic preservation matters must be filed within 15
days after the EA becomes available to the public.

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Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: January 6, 1997.

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

Vernon A. Williams

Secretary