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SERVICE DATE - MAY 13, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 8X)

NEW YORK CENTRAL LINES, LLC-ABANDONMENT  
EXEMPTION-IN DELAWARE COUNTY, OH

Decided: May 10, 2002

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) (collectively, applicants), filed a notice of exemption under 49 CFR 1152 Subpart F-Exempt Abandonments and Discontinuances of Service for NYC to abandon and CSXT to discontinue service over approximately 1.5 miles of railroad from milepost QED 114.1 to milepost QED 115.6 in Delaware, Delaware County, OH. Notice of the exemption was served and published in the Federal Register on April 12, 2002 (67 FR 18053-54).<sup>1</sup> The exemption is scheduled to become effective on May 14, 2002.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on April 19, 2002. In the EA, SEA states that the Ohio Historical Society, Historic Preservation Division (SHPO), has not yet completed its assessment of the potential impact of this project on historic resources.<sup>2</sup> Therefore, SEA recommends that applicants retain their interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

SEA also states that the National Geodetic Survey (NGS) has identified four geodetic station markers that may be affected by the proposed abandonment. Therefore, SEA recommends that

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<sup>1</sup> While the notice embraced the proposed discontinuance in STB Docket No. AB-55 (Sub-No. 608), CSX Transportation, Inc.-Discontinuance of Service Exemption-in Delaware County, OH, the environmental conditions discussed in this decision are imposed on the proposed abandonment.

<sup>2</sup> SEA noted that there are three CSXT-owned bridge structures on the proposed abandonment that have been identified as being 50 years old or older. Bridge No. 114.15, built in 1906, crosses State Route 36; Bridge No. 114.33, built in 1913, crosses State Route 23 and the Olantangy River; and Bridge No. 114.56, built in 1909, crosses Henry Street.

applicants be required to notify NGS 90 days prior to salvage activities in order to plan for the relocation of the markers.

SEA further states that the U.S. Department of the Interior, Fish and Wildlife Service, Ecological Services, Reynoldsburg, Ohio Office (FWL), has expressed concerns regarding the summer habitat of the Federally endangered Indiana bat (*Myotis sodalis*)<sup>3</sup> and the Federally threatened bald eagles (*Haliaeetus leucocephalus*) that may be nesting within the range of the proposed abandonment. Accordingly, to address FWL's concerns, SEA recommends that, during salvage activities, applicants be required to: (1) save trees exhibiting characteristics of Indiana bat habitat wherever possible, and if the trees must be cut, they should not be cut between April 15 and September 15 (SEA further states that, if this time restriction is unacceptable, a survey to determine if bats are present shall be conducted in coordination with the FWL, Reynoldsburg Office endangered species coordinator); and (2) prior to salvage activities, contact the Ohio Division of Wildlife for location(s) of the eagle nest(s) in the county (and if any nests are located within one-half mile of the project site, applicants shall notify and further coordinate abandonment activities with FWL Ecological Services, Reynoldsburg, Ohio Office).

As conditioned, 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 exemption of the abandonment of the rail line described above is subject to the condition that applicants: (a) retain their interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way until completion of the section 106 process of the NHPA; (b) consult with the NGS and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic markers in order to plan for their relocation; (c) comply with FWL's concerns regarding: (i) saving trees exhibiting characteristics of Indiana bat habitat wherever possible, and if the trees must be cut, they should not be cut between April 15 and September 15 (and, if this time restriction is unacceptable, a survey to determine if bats are present shall be conducted in coordination with the FWL's Reynoldsburg Office endangered species coordinator); and (ii) prior to salvage activities, contacting the Ohio Division of Wildlife for location(s) of the eagle nest(s) in the county (and if

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<sup>3</sup> FWL notes that summer habitat requirements for the species include: dead or live trees and snags with peeling or exfoliating bark, split tree trunk and/or branches, or cavities, which may be used as maternity roost areas; live trees (such as shagbark hickory) which have exfoliating bark; and stream corridors, riparian areas, and upland woodlots which provide forage sites.

any nests are located within one-half mile of the project site, applicants shall notify and further coordinate abandonment activities with FWL Ecological Services, Reynoldsburg, Ohio Office).

3. This decision is effective on the date of service.

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

Vernon A. Williams  
Secretary