

SURFACE TRANSPORTATION BOARD

Docket No. AB 55 (Sub-No. 717X)

DECISION

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN MIAMI-DADE COUNTY, FLA.

Decided: October 7, 2011

CSX Transportation, Inc. (CSXT) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon its freight rail easement over an approximately 0.95-mile rail line on its Southern Region, Jacksonville Division, Miami Subdivision, extending between milepost SX 1036.8 and the end of the track at milepost SX 1037.5, including approximately 1,300 feet of connecting track beginning 150 feet from the point of switch near milepost SXH 37.0 in Miami, Miami-Dade County, Fla. Notice of the exemption was served and published in the Federal Register on September 9, 2011 (76 Fed. Reg. 56,004). The exemption is scheduled to become effective on October 11, 2011.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on September 16, 2011. In the EA, OEA stated that the Miami-Dade County Planning and Zoning Department (MPZD) has submitted a detailed comment that it had received from the Department of Environmental Resources Management (DERM) recommending the following conditions involving conducting salvage activities on the line: (1) because water and sewer lines are located within the vicinity of the proposed abandonment, CSXT should ensure that extra care is taken to protect the County's water distribution and sewage collection systems; (2) CSXT should ensure that Phase I and Phase II reports addressing soil and groundwater impacts be submitted for review by DERM's Pollution Control Division; and (3) CSXT must consult with DERM regarding the adequacy of the Florida Department of Transportation's (FDOT) Salvage Scope of Work, whether any properties near the proposed abandonment require contamination assessment or remediation, and whether permits are required to address stormwater runoff and dewatering resulting from salvage activities. Accordingly, OEA recommended in the EA that the Board impose the three environmental conditions requested by MPZD and DERM.

Comments on the EA were due by October 3, 2011, and one comment was received. In that comment, CSXT contends that the Board should not impose on it the burden of preparing and submitting Phase I and Phase II reports regarding salvage because FDOT, as the owner of the line's real estate, track, and materials, will conduct salvage of the line, not CSXT. In its final EA issued on October 4, 2011, OEA explains that the Board, to satisfy its responsibilities under the National Environmental Policy Act in abandonment proceedings such as this (where the abandoning carrier would not be the entity salvaging the line because it no longer owns the line's

real estate, track, and materials), typically imposes a condition on the abandoning carrier requiring it to ensure that salvage is conducted in a certain way. Consistent with this approach, OEA states that it did not intend for the Board to require CSXT to prepare the Phase I and Phase II reports addressing soil and groundwater impacts in its condition recommended in the EA, but rather, to require CSXT to ensure that the reports prepared by FDOT are submitted to DERM. OEA has modified that condition in the final EA accordingly. OEA continues to recommend the imposition of the other environmental conditions as set forth in the EA.

Accordingly, the conditions recommended by OEA in the EA, as modified in the final EA, will be imposed. Based on OEA's recommendation, the proposed abandonment, if implemented as conditioned, 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 notice served and published in the Federal Register on September 9, 2011, exempting the abandonment of the line described above is subject to the conditions that CSXT shall: (1) ensure that extra care is taken to protect the County's water distribution and sewage collection systems because water and sewer lines are located within the vicinity of the proposed abandonment; (2) ensure that the Phase I and Phase II reports prepared by FDOT addressing soil and ground water impacts are submitted to DERM's Pollution Control Division for its review; and (3) consult with DERM's Pollution Control Division regarding the adequacy of FDOT's Salvage Scope of Work, whether any properties near the proposed abandonment require contamination assessment or remediation, and whether permits are required to address stormwater runoff and dewatering resulting from salvage activities.
3. This decision is effective on its date of service.

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