

SERVICE DATE — MARCH 17, 2022

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 799X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN DICKENSON
COUNTY, VA.

Decided: March 16, 2022

CSX Transportation, Inc. (CSXT), filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 13.65-mile rail line on its Florence Division, Kingsport Subdivision, Fremont Branch extending between milepost ZF 0.0 and milepost ZF 13.65, in Dickenson County, Va. Notice of the exemption was served and published in the Federal Register on May 15, 2020 (85 Fed. Reg. 29,501). The exemption became effective on June 14, 2020.

By decision dated June 12, 2020, the Board imposed three conditions recommended by the Board's Office of Environmental Analysis (OEA): (1) a historic preservation condition pursuant to Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108; (2) a condition pursuant to Section 7 of the Endangered Species Act (16 U.S.C. § 1535) requiring CSXT to consult with the U.S. Fish and Wildlife Service (USFWS) and OEA to address concerns about potential impacts to the Big Sandy crayfish (*Cambarus callainus*) and to develop appropriate mitigation measures, if necessary; and (3) a condition requiring CSXT to notify the National Geodetic Survey (NGS) at least 90 days prior to beginning salvage activities.¹

In a Supplemental Final Environmental Assessment served on March 4, 2022, OEA states that on November 4, 2021, OEA received correspondence from the Virginia Department of Historic Resources stating that the proposed abandonment would have no adverse effect on historic properties. As a result, OEA concludes that the proposed abandonment would not affect historic properties listed, or eligible for listing, in the National Register of Historic Places and recommends that the Board remove the Section 106 historic preservation condition.

The Supplemental Final Environmental Assessment also states that OEA received correspondence from CSXT stating that it agrees to implement mitigation measures recommended by USFWS to minimize the proposed abandonment's potential to adversely impact the Big Sandy crayfish. Specifically, CSXT agrees to: (1) develop and retain a spill prevention/response plan on-site; (2) change all fluids and refuel mobile equipment more than 500 feet away from streams and rivers; and (3) ensure any gasoline-powered equipment such as

¹ The Board also imposed a public use condition under 49 U.S.C. § 10905 and 49 C.F.R. § 1152.28, which expired on December 11, 2020.

pumps, generators, and fuel tanks are entirely enclosed or placed within a secondary containment structure large enough to completely contain all materials should a leak, spill, or overflow occur. Accordingly, OEA recommends that the Section 7 consultation condition be removed and replaced with a condition requiring CSXT to comply with the mitigation measures recommended by USFWS.

Consistent with OEA's recommendations, this proceeding will be reopened and the previously imposed Section 106 historic preservation condition and Section 7 consultation condition will be removed. The Section 7 consultation condition will be replaced with a condition requiring CSXT to comply with the mitigation measures recommended by USFWS. The previously imposed environmental condition requiring CSXT to notify NGS before beginning salvage activities remains unchanged.

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 June 12, 2020 decision is removed.
3. Upon reconsideration, the Section 7 consultation condition imposed in the June 12, 2020 decision is removed and replaced with a condition requiring CSXT to: (1) develop and retain a spill prevention/response plan on-site; (2) change all fluids and refuel mobile equipment more than 500 feet away from streams and rivers; and (3) ensure any gasoline-powered equipment such as pumps, generators, and fuel tanks are entirely enclosed or placed within a secondary containment structure large enough to completely contain all materials should a leak, spill, or overflow occur.
4. This decision is effective on its date of service.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.