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SERVICE DATE - DECEMBER 24, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 640)

CSX TRANSPORTATION, INC.—ABANDONMENT— IN ATKINSON AND WARE COUNTIES, GA

Decided: December 23, 2003

On September 5, 2003, CSX Transportation, Inc. (CSXT), filed an application under 49 U.S.C. 10903 seeking authority to abandon and discontinue service over a 23.25-mile portion of its Southern Region, Jacksonville Division line extending from milepost AP 594.69, near Waresboro, to milepost AP 617.94, near Pearson, in Atkinson and Ware Counties, GA (the line). Notice of the filing was served and published in the Federal Register (68 FR 55429) on September 25, 2003. Protests were timely filed on October 16, 2003, by the City of Pearson, GA (Pearson), Pope Trucking, Inc. (Pope), and Cady Industries, Inc. (Cady), on October 17, 2003, by the Atkinson County Board of Commissioners (Atkinson County), and on October 20, 2003, by the Georgia Department of Transportation (GADOT). On November 4, 2003, CSXT filed a rebuttal to the protests.

BACKGROUND

The line, constructed in the late 1800's, has significantly deteriorated in recent years, and is currently in poor condition. As will be explained in detail below, the ties, last replaced in 1979, are again in need of replacement, and the 100-pound jointed rail, dating from 1926 on part of the line and 1965 on the other, also needs to be replaced. The line is operated as Federal Railroad Administration (FRA) excepted track. CSXT is concerned that at any time, further deterioration may occur, necessitating either an embargo or a highly expensive rehabilitation process.

TRAFFIC, OPERATIONS, AND REVENUES

CSXT states that traffic on the line has declined over the last several years, due in large part to the closing of a Georgia Pacific facility at Pearson. The line has served three shippers recently: Pope, Cady, and Willacoochee Industrial Fabrics, Inc. (WIF). WIF did not file a protest opposing the abandonment, and, according to CSXT, has rerouted its traffic and no longer ships traffic over the line. Pope, primarily a trucking company, serves various shippers, transporting mostly lumber and steel beams. Cady, a manufacturer of agricultural packaging products and geotextile products, operates a plant 1.5 miles from the line, and ships mostly plastic flakes, granules, and polypropylene. According to CSXT, the involved traffic is reload traffic, which is traffic that is long-hauled by the railroad to a

destination where it is unloaded from rail cars and reloaded onto trucks and then transported to its final destination. Cady uses a team track in Pearson to unload rail cars onto its own trucks for movement to its facility. Pope reloads from rail to truck at a switch located at milepost AP 616 for delivery to its customers.

CSXT transported 146 carloads of traffic in 2001, 119 carloads of traffic in 2002, and 77 carloads through June 30, 2003. CSXT provides revenue and cost data for a base year (April 1, 2002–March 31, 2003) and a forecast year (September 1, 2003–August 31, 2004). In the base year, CSXT shipped 127 carloads of traffic, which generated revenues of \$345,899, and earned a profit of \$64,212. In the forecast year, CSXT calculates it will generate revenues of \$356,276 and earn \$68,865 in profit. When opportunity costs are considered, the profit is reduced to \$38,965. CSXT also provides data for a subsidy year, as defined in 49 CFR 1152.2(m) (any 12-month period for which a subsidy agreement for continued rail service has been negotiated and is in operation; here, January 1, 2004–December 31, 2004). CSXT estimates that in the subsidy year it will earn revenues of \$359,735, which will result in a profit of \$70,826. When opportunity costs and subsidization costs are factored in, the result is an estimated subsidy payment of \$1,251,153.

None of the protestants have challenged CSXT's estimates or calculations, which appear to be reasonable. Therefore, the Board will accept the applicant's figures, which are more fully explained below.

AVOIDABLE COSTS

Avoidable costs are costs that the applicant will cease to incur if it abandons and discontinues service over the line. As already indicated, CSXT has submitted data showing avoidable on-branch costs for the base, forecast, and subsidy years. These include: maintenance-of-way and structures (MOW&S); maintenance of equipment–locomotives; transportation; joint facilities; deadheading–taxi and hotel; overhead movement; freight car costs (other than return); return on value–locomotives; return on value–freight cars; revenue taxes; and property taxes. CSXT reports total avoidable on-branch costs of \$170,439 for the base year, \$172,059 for the forecast year, and \$172,624 for the subsidy year. In addition, it reports total avoidable off-branch costs of \$111,249 for the base year, \$115,352 for the forecast year, and \$116,286 for the subsidy year. Total avoidable costs are \$281,687 for the base year, \$287,411 for the forecast year, and \$288,909 for the subsidy year.

The verified statement of CSXT's Senior Costing Manager, Ms. Ellen Preslar, states that CSXT's estimate for the cost of MOW&S is based on an average annual expenditure of \$5,000 per mile for 23.25 miles. The Board notes that CSXT has provided no evidence as to how it arrived at the average annual maintenance expenditure amount of \$5,000 per mile, or what this expenditure includes.

However, it is within the range of annual per mile expenditures that railroads have submitted in other abandonment applications.

LINE CONDITION AND REHABILITATION

According to CSXT, the line requires substantial rehabilitation in the amount of \$1,279,283. Although revenues exceeded the avoidable costs of service on the line in the base year by \$64,212, CSXT argues that those revenues do not justify the cost of rehabilitation.

As previously stated, this is an old line, in poor condition. After the Georgia Pacific facility at Pearson closed, the condition of the track has worsened, and without rehabilitation, CSXT asserts, it will not be able to safely operate the line.

The line consists of 100-pound jointed rail. The track from milepost AP 603.3 to the end of the line at milepost AP 617.94 dates from 1926, and the track from milepost AP 594.69 to milepost AP 603.3 dates from 1965. According to CSXT, all of the ties on the line require replacement. None of the ties have been replaced since 1979, and some are even older. CSXT states that ties in this region deteriorate faster than ties elsewhere due to the insects and high humidity prevalent in Georgia. Although CSXT avers that all of the ties require replacement, its experts have estimated the rehabilitation cost according to the FRA Class 1 minimum standards that permit 5 good ties per 39 feet of track. If all of the ties, tie plates, and anchors were replaced, the line would also need to be resurfaced. Assuming a 23-year life for the ties (based on the life of the current ties), CSXT claims that it would need to generate \$55,621 annually merely to cover the cost of rehabilitation.

None of the protestants have contested CSXT's estimates of the cost of rehabilitating the line. Because protestants do not address rehabilitation costs, the applicant's evidence is the only evidence of record. The level of rehabilitation appears reasonable and in conformance with industry standards. The Board, therefore, accepts CSXT's rehabilitation cost of \$1,279,283. When rehabilitation cost is included in the subsidy year, an estimated subsidy payment of \$1,251,153 would be required to continue operation of the line.

OPPORTUNITY COSTS

Opportunity costs (or total return on value of road property) reflect the economic loss experienced by a carrier from forgoing a more profitable alternative use of its assets. Under Abandonment Regulations—Costing, 3 I.C.C.2d 340 (1987), the opportunity cost of road property is computed on an investment base equal to the sum of: (1) allowable working capital; (2) the net liquidation value (NLV) of the line; and (3) current income tax benefits (if any) resulting from abandonment. The investment base (or valuation of the road properties) is multiplied by the current

nominal rate of return, to yield the nominal return on value. Under 49 CFR 1152.34(d), the rate of return used to calculate return on value represents the individual railroad's current pre-tax nominal cost of capital. Our most recent after-tax cost of capital finding for the railroad industry is used as a basis for developing the appropriate nominal rate of return. The nominal return is then adjusted by applying a holding gain (or loss) to reflect the increase (or decrease) in value a carrier will expect to realize by holding assets for one additional year.

CSXT estimates the NLV for track assets to be \$201,203 and the land value at \$60,000, making the NLV for the entire line \$261,203. Neither estimate is supported with underlying data, but none of the protestants have addressed this issue. Therefore, the Board accepts CSXT's estimates of track assets and land as they do not appear unreasonable and are the only evidence of record. CSXT's estimates of the working capital and tax benefits also are unchallenged by the protestants and appear reasonable. These figures will therefore also be accepted.

Based on the estimates for these items, CSXT projects that the line will have a forecast year total opportunity cost of \$29,900 and a subsidy year total opportunity cost of \$29,903.

SUMMARY OF COST AND REVENUE EVIDENCE

CSXT's forecast year and subsidy year revenue and cost estimates, including return on value and subsidization costs, are not contested. Based on CSXT's evidence, the Board finds that the line would realize a profit from operations of \$68,865 for the forecast year, and when the return on value is factored in, an avoidable profit of \$38,965. The Board also finds that the profit from operations in the subsidy year would be \$70,826, and when the return on value is factored in, an avoidable profit of \$40,923. However, when rehabilitation costs are included, CSXT would require an estimated subsidy year payment of \$1,251,153.

ALTERNATIVE TRANSPORTATION

As noted, the traffic on the line is reload traffic, which, according to CSXT, is highly competitive and has many transportation alternatives. The location of reload operations is not a fixed point on the line. CSXT states that all that is generally needed to unload a railcar is room next to the track, a forklift (or a pressure hose for commodities such as plastic pellets) to transfer the goods to trucks, a nearby road, and employees to unload the railcars and reload the trucks. Hence, CSXT asserts, the railroad termination point can be easily changed. CSXT states that as such, reload shipments can be rerouted to different destinations with very little cost to the receiver. For example, WIF has rerouted its traffic to Willacoochee, GA, on an 18-mile line purchased by the City of Willacoochee.

CSXT provides service to Waresboro, GA (23.25 miles from Pearson), the Waycross Ware County Industrial Park (Waycross Ware) west of Waycross, GA, and provides yard service in Waycross (30 miles from Pearson). Between Waycross and Pearson is a divided highway, U.S. 82, which also serves Axson, GA, Millwood, GA, Fairfax, GA, and Waresboro. Waycross Ware has direct access to U.S. Highways 82 and 1. Pearson is served from the north and south by U.S. Highways 221 and 441.

As already noted, Pope currently reloads from rail to truck at a switch located at milepost AP 616. For its own account, Pope transloads cargo from trucks to rail cars. For its shipper Paco Steel, Pope transloads steel beams from rail cars to trucks for delivery to Paco Steel or one of its customers. Much of the lumber handled by Pope is for Battle Lumber Company, Inc., of Wadley, GA. There is direct rail service in Wadley. According to CSXT, Pope will relocate its future reload business to either Waycross Ware or another CSXT track in Ware County.

Also as previously stated, Cady uses a team track in Pearson at the end of the line to unload rail cars into its own trucks for movement to its facility. CSXT purports to have offered to provide Cady a transload facility at either the CSXT public track at Waresboro, GA, or Waycross Ware instead of its current reload location on a siding in Pearson. In addition, CSXT states that it has offered a per car allowance to help offset the additional costs that Cady might incur from moving its reload operation.

Pope and Cady argue that alternative shipping would be cost prohibitive if the line is abandoned. Specifically, Pope contends that increased costs will result in loss of revenue and jobs and loss of expansion opportunities. Ultimately, it claims that it will result in the “likely” loss of at least one customer and the loss of 1-5 jobs. Cady contends that the increased costs will hamper its ability to compete and result in the loss of jobs.

SHIPPER AND COMMUNITY INTERESTS

Protestants argue that the abandonment should be denied based on shipper and community interests. The three government entities fear loss of jobs and other harms to the community if the Board authorizes the abandonment.

Protestants maintain that community development would be negatively affected by this abandonment and that the application discourages existing and new traffic. According to GADOT, there are plans to construct a wood processing mill in Axson, and the Georgia Pacific facility on the line would consider reopening, but only if rail service is available. GADOT also claims that the abandonment would cause economic harm to an already depressed area, and without railroad access, new jobs will not be attracted to the area. Pearson states that the terminus of the line at Pearson provides direct access between the ports of Savannah, GA, Brunswick, GA, Jacksonville, FL, and the

Marine Corps Logistics Supply Base in Albany, GA.

In its rebuttal, CSXT notes that protestants have not provided any economic data concerning the harm that would be caused by granting CSXT authority to abandon the line, and have not presented any evidence challenging CSXT's argument that the costs of rehabilitating the line would greatly exceed the revenue it receives from traffic. CSXT also states that a location has not been chosen for the proposed wood mill, that Georgia Pacific has no intention of reopening its facilities on the line, that Pearson is not on a direct route from Albany to any of the ports of Savannah, Brunswick, or Jacksonville, and that no one expressed interest in expanding industry along the line, all contrary to the protestants' claims. Finally, CXST asserts that the Marine base at Albany is not on the line or any CSXT line.

DISCUSSION AND CONCLUSIONS

The statutory standard governing an abandonment or discontinuance of service is whether the present or future public convenience and necessity permit the proposed abandonment or discontinuance. 49 U.S.C. 10903(d). In implementing this standard, the Board must balance the potential harm to affected shippers and communities against the present and future burden that continued operations could impose on the railroad and on interstate commerce. Colorado v. United States, 271 U.S. 153 (1926). Essentially, the Board must determine whether the burden on the railroad and on interstate commerce from continued operations is outweighed by the burden on the shippers and the community from the loss of rail service.

CSXT has established that continued operation of the line would be burdensome. Its projection of 127 carloads annually is consistent with recent traffic and has not been refuted by protestants' evidence. As stated above, the line would realize a subsidy year profit from operations of \$70,826, but rehabilitation costs for the line result in a subsidy requirement of \$1,251,153.

In contrast to the demonstrated burden that continued operation of the line will impose on CSXT and on interstate commerce, the burden that abandonment will impose on shippers and the community appears to be speculative at best. Moreover, although protestants allege that lack of rail service will deter new business investment in the area, no specifics are provided. The Board concludes that any harm to the shippers and the community from the proposed abandonment is outweighed by the demonstrated harm to CSXT and the burden on interstate commerce through continued operation of the line. The abandonment application will therefore be granted.

LABOR PROTECTION

In approving this abandonment application, the Board must ensure that affected rail employees will be adequately protected. 49 U.S.C. 10903(b)(2). The conditions imposed in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979) (Oregon), satisfy the statutory requirements, and those conditions will be imposed here.

ENVIRONMENTAL ISSUES

The Board is also required to consider the environmental and energy impacts of the proposed abandonment. CSXT has submitted an environmental report with its application and has notified the appropriate Federal, state, and local agencies of the opportunity to submit information concerning the energy and environmental impacts of the proposed abandonment. See 49 CFR 1105.11. The Board's Section of Environmental Analysis (SEA) has examined the environmental report, verified its data, and analyzed the probable effects of the proposed action on the quality of the human environment. SEA served an environmental assessment (EA) on October 8, 2003, and requested comments by November 6, 2003.

In the EA, SEA notes that the Natural Resources Conservation Service (NRCS) states that about 46% of land in the area of the proposed abandonment is prime or unique farmland. Therefore, SEA recommends that CSXT consult with NRCS prior to salvage regarding measures to protect prime or unique farmlands.

SEA also notes that the National Geodetic Survey (NGS) has identified 34 geodetic station markers that may be affected by the proposed abandonment. Therefore, SEA recommends that CSXT provide NGS with at least 90 days' notice prior to initiation of any salvage operations that may disturb or destroy any geodetic station markers so that plans can be made for their relocation.

Finally, SEA notes that the Georgia Department of Natural Resources, Historic Preservation Division (SHPO) has not yet completed its review of the proposed abandonment. Therefore, SEA recommends that a condition be imposed requiring CSXT to retain its interest in and take no steps to alter the historic integrity of the line and all sites and structures on the line until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

No comments to the EA were filed. Accordingly, the conditions recommended by SEA in the EA will be imposed. The Board concludes that the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

SEA has indicated in its EA that the right-of-way may be suitable for other public use following abandonment. Public use requests were due by October 20, 2003. However, no one has sought a public use condition, and none will be imposed.

The Board finds:

1. The present or future public convenience and necessity permit the abandonment of the above-described line, subject to the employee protective conditions in Oregon, and the conditions that CSXT shall: (1) consult with NRCS regarding measures to protect prime or unique farmlands prior to engaging in any salvage activities; (2) provide NGS with at least 90 days' notice prior to initiation of any salvage operations that may disturb or destroy any geodetic station markers so that plans can be made for their relocation; and (3) retain its interest in and take no steps to alter the historic integrity of the line and all sites and structures on the line until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

2. Abandonment of the line will not have a serious, adverse impact on rural and community development.

3. The line may be suitable for other public purposes.

4. As conditioned, this action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This application is granted subject to the conditions specified above.

2. An offer of financial assistance (OFA) under 49 CFR 1152.27(c)(1) to allow rail service to continue must be received by the railroad and the Board by January 5, 2004, subject to time extensions authorized under 49 CFR 1152.27(c)(1)(i)(C). The offeror must comply with 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1). Each OFA must be accompanied by a \$1,100 filing fee. See 49 CFR 1002.2(f)(25).

3. OFAs and related correspondence to the Board must refer to this proceeding. The following notation must be typed in bold face on the lower left-hand corner of the envelope: **"Office of Proceedings, AB-OFA."**

4. Provided no OFA has been received, this exemption will be effective on January 23, 2004. Any petition to stay or petition to reopen must be filed as provided at 49 CFR 1152.25(e).

5. Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by CSXT's filing of a notice of consummation by December 24, 2004, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire. If a legal or regulatory barrier to consummation exists at the end of the 1-year period, the notice of consummation must be filed no later than 60 days after satisfaction, expiration, or removal of the legal or regulatory barrier.

By the Board, Chairman Nober.

Vernon A. Williams
Secretary

APPENDIX

	CSXT FORECAST YEAR beginning September 1, 2003	CSXT SUBSIDY YEAR ending December 31, 2004
1. Freight Orig. and/or Term. on Branch	\$356,276	\$359,735
2. Bridge Traffic	0	0
3. All Other Revenue and Income	0	0
4. Total Attributable Revenue (Ls. 1 thru 3)	\$356,276	\$359,735
5. On-branch Costs:		
a. Maintenance-of-Way and Structures	\$116,250	\$116,250
b. Maintenance-of-Equipment (Including Depreciation)	7,156	7,212
c. Transportation	43,840	44,342
d. General & Administrative	0	0
e. Deadheading, Taxi and Hotel	0	0
f. Overhead Movement	0	0
g. Freight Car Costs (Other Than Return)	729	735
h. Return on Value - Locomotives	3,953	3,953
i. Return on Value - Freight Cars	131	131
j. Revenue Taxes	0	0
k. Property Taxes	0	0
l. Total (Ls. 5a thru 5k)	\$172,059	\$172,623
m. Holding Gains - Locomotives	0	0
n. Holding Gains (Loss) - Freight Cars	0	0
o. Net On-br Costs (Ls. 5l - 5m & 5n)	\$172,059	\$172,623
6. Off-branch Costs:		
a. Off-Branch Costs (Other Than Return)	\$114,748	\$115,682
b. Return on Value - Freight Cars	604	604
c. Holding Gains - Freight Cars	0	0
d. Net Off-br Costs (Ls. 6a+6b - 6c)	\$115,352	\$116,286
7. Total Avoidable Costs (L. 5o + L. 6d)	\$287,411	\$288,909
8. Rehabilitation	\$0	\$1,279,283
9. Administrative Costs (Subsidy Year Only)	0	\$12,793
10. Casualty Reserve Account	0	0
11. Total Subsidization Cost (Ls. 8 thru 10)	\$0	\$1,292,076
12. Valuation of Road Properties		
a. Working Capital	\$6,822	\$6,844
b. Income Tax Consequences	(24,603)	(24,603)
c. Net Liquidation Value	261,203	261,203
d. Total (Ls. 12a thru 12c)	\$243,422	\$243,444
13. Nominal Rate of Return	14.0%	14.0%
14. Nominal Return on Value (L. 12d x L. 13)	\$34,079	\$34,082
15. Holding Gain (Loss)	\$4,179	\$4,179
16. Total Return on Value (L. 14 - L. 15)	\$29,900	\$29,903
17. Avoidable (Loss) or Profit from Operations (L. 4 - l. 7)	\$68,865	\$70,826
18. Avoidable (Loss) or Profit Including Return on Value (L.4 - Ls. 7&16)	\$38,965	\$40,923
19. Estimated Subsidy Payment (L.4 - Ls. 7, 11, & 16)		(\$1,251,153)