

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 649X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–IN NIAGARA
COUNTY, NY

Decided: October 30, 2007

CSX Transportation, Inc. (CSXT), filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 1.57-mile line of railroad known as the Erie Industrial Track, on its Northern Region, Albany Division, Niagara Subdivision, extending from milepost QCJ 13.43 to milepost QCJ 15.0, in North Tonawanda, Niagara County, NY. Notice of the exemption was served and published in the Federal Register on September 26, 2007 (72 FR 54714-15). The notice stated that the exemption would become effective on October 26, 2007, unless stayed by the Board or a formal expression of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(2) was filed by October 9, 2007.

On September 10, 2007, B P Rail Corporation d/b/a BP Rail (BPR) filed a formal expression of intent to file an OFA to purchase CSXT's line proposed for abandonment. This filing automatically stayed the effective date of the exemption for 10 days, until November 5, 2007.¹ In the filing, BPR requests that CSXT provide it with the information set forth in 49 CFR 1152.27(a), including the minimum purchase price required to acquire the line. BPR also requests that CSXT provide the most recent report on the physical condition of the line, as well as traffic, revenue, and data necessary to determine CSXT's estimate on the net liquidation value (NLV) of the line, along with supporting data reflecting available real estate appraisals, assessments of the quality and the quantity of track material that comprises the line, and removal cost estimates used to obtain the NLV.² In addition, BPR requests, pursuant to 49 CFR 1152.27(c)(2)(ii)(C), that the Board toll the 30-day time period for the filing of an OFA for an additional 60 days to provide BPR with an adequate opportunity to review and analyze the materials to be provided by CSXT, and to prepare its OFA. The request for an extension of the OFA filing deadline is warranted and will be granted. Accordingly, the due date for BPR to submit an OFA will be extended for an additional 60 days, until December 26, 2007, and the effective date of the exemption will be further extended until January 5, 2008.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ See 49 CFR 1152.27(c)(2)(i).

² BPR simultaneously served the notice of intent on CSXT.

It is ordered:

1. The request to toll the due date for submitting an OFA in this proceeding is granted.
2. The time period for BPR to file an OFA is tolled for 60 days until December 26, 2007.
3. The effective date of the exemption is postponed until January 5, 2008.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary