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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 55 (Sub-No. 745X)]

CSX Transportation, Inc.—Abandonment Exemption—in Floyd County, Ky.

CSX Transportation, Inc. (CSXT) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 11.4 miles of railroad line between milepost COQ 0.0 near Prestonsburg and milepost COQ 10.1 near David, in Floyd County, Ky. (the Line).¹ The Line, which traverses United States Postal Service Zip Codes 41653, 41607, and 41616, includes the stations of McNally (OPSL 67056, FSAC 84079), Samson (OPSL 67057, FSAC 84083), Joyce Marie (OPSL 67057.1, FSAC 84084), Beverly Ann (OPSL 67059, FSAC 84076), and David (OPSL 67060, FSAC 84075).

CSXT has certified that: (1) no freight traffic has moved over the Line for at least two years; (2) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year

¹ The Board previously authorized CSXT to abandon most of the Line in 2004. CSX Transp.—Aban. Exemption—in Floyd Cty., Ky., AB 55 (Sub-No. 645X) (STB served Feb. 9, 2004). CSXT indicates, however, that it again seeks an exemption to abandon the Line because the deadline to consummate the prior abandonment authority expired on April 23, 2008.

period; and (3) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 2, 2015, unless stayed pending reconsideration.² Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),⁴ and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by November 12, 2015. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by November 23, 2015, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

² Because CSXT amended its verified notice of exemption on October 13, 2015, that date is the official filing date and the basis for all subsequent dates.

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

⁴ Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2(f)(25).

A copy of any petition filed with the Board should be sent to CSXT's representative: Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

CSXT has filed environmental and historic reports that address the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by November 6, 2015. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 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 November 2, 2016, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: October 28, 2015.

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