

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 55 (Sub-No. 791X)]

CSX Transportation, Inc.—Abandonment Exemption—in Mason 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 its dock and loadout/conveyor belt at the Maysville Port in Maysville, beginning at milepost CA 599.0 in Mason County, Ky. (the Line).¹ The Line traverses U.S. Postal Service Zip Code 41056.

CSXT has certified that: (1) no local traffic has moved over the Line for at least two years; (2) any overhead traffic over the Line can be rerouted over other lines; (3) 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 either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.12 (newspaper publication), 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies), 49 C.F.R. § 1105.11 (transmittal letter), and 49 C.F.R. §§ 1105.7 and 1105.8 (environment and historic report) have been met.

¹ CSXT states that, prior to November 2016, it moved coal through the dock and loadout to a power plant down the Ohio River, and that it is seeking abandonment authority because, under Board precedent, rail-water terminal property has been considered a line of railroad and part of rail operations.

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,² this exemption will be effective on July 7, 2019, unless stayed pending reconsideration. 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), and interim trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by June 17, 2019.⁴ Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by June 27, 2019, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

² Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (i.e., subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(2)(i).

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 Filing fees for OFAs and trail use requests can be found at 49 C.F.R. § 1002.2(f)(25) and (27), respectively.

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 Ave., Suite 301, Towson, MD 21204.

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

CSXT has filed an environmental and historic report that addresses the potential effects of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by June 14, 2019. The EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal 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 interim 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 June 7, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at www.stb.gov.

Decided: June 3, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.