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SERVICE DATE - SEPTEMBER 4, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 8X)

NEW YORK CENTRAL LINES, LLC–ABANDONMENT
EXEMPTION–IN DELAWARE COUNTY, OH

Decided: August 28, 2002

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) (collectively, applicants), filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments and Discontinuances of Service for NYC to abandon and CSXT to discontinue service over approximately 1.5 miles of railroad from milepost QED 114.1 to milepost QED 115.6 in Delaware, Delaware County, OH. Notice of the exemption was served and published in the Federal Register on April 12, 2002 (67 FR 18053-54).¹

By decision served May 13, 2002, the proceeding was reopened at the request of the Board's Section of Environmental Analysis (SEA) and the exemption was made subject to three conditions, including one requiring that applicants retain their interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470(f).²

By letter filed August 13, 2002, CSXT requests that the historic preservation condition be removed. In support of its request, CSXT attached a letter which included an indication by the Ohio

¹ On May 23, 2002, a decision and notice of interim trail use or abandonment (NITU) was served that reopened the proceeding to implement interim trail use rail banking under 49 CFR 1152.29 and the National Trails System Act, 16 U.S.C. 1247(d), and a public use condition that required applicants to leave the right-of-way intact including bridges, culverts and tunnels and similar structures for a period of 180 days from the May 14, 2002 effective. The public use condition will expire on November 10, 2002, and the trail use negotiation period is scheduled to expire on November 19, 2002.

² While the notice embraced the proposed discontinuance in STB Docket No. AB-55 (Sub-No. 608), CSX Transportation, Inc.–Discontinuance of Service Exemption-in Delaware County, OH, the environmental conditions were imposed on the proposed abandonment.

Historical Society, Historic Preservation Division, that there are no properties listed in or eligible for inclusion in the National Register of Historic Places within the area affected by the proposed abandonment. As a result, SEA recommends that the section 106 condition imposed in the May 13, 2002 decision be removed.

Accordingly, the proceeding will be reopened and the previously imposed historic condition will be removed.³

This decision 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 condition imposed in the decision served May 13, 2002, is removed.
3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary

³ The two other conditions imposed in the May 13, 2002 decision remain.