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SERVICE DATE - SEPTEMBER 27, 2019

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 55 (Sub-No. 795X)]

CSX Transportation, Inc.—Discontinuance of Service Exemption—in Harlan County, Ky.

CSX Transportation, Inc. (CSXT), has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service to discontinue service over an approximately 16.22-mile rail line on its Louisville Division, CV Subdivision, known as the Clover Fork Branch between milepost OWH 242.28 and milepost OWH 258.5, in Harlan County, Ky. (the Line). The Line traverses U.S. Postal Service Zip Codes 40831, 40801, 40806, and 40828. CSXT states that there are 13 stations on the Line,¹ and that they can all be closed.

CSXT has certified that: (1) no freight traffic has moved over the Line for two years; (2) no overhead traffic has been operated and therefore none needs to be rerouted; (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 with

¹ The stations are listed as Dartmont (OWH 243), Kitts (OWH 244), Coxton (OWH 245), Brookside (OWH 246), Ages (OWH 247), Parkdale (OWH 248), Verda (OWH 249), Harcow (OWH 250), Evarts (OWH 251), Black Mountain (OWH 252), Dartmont (OWH 253), Pillsbury (OWH 254), and Highsplint (OWH 257).

any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 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 discontinuance of service 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)² to subsidize continued rail service has been received, this exemption will be effective on October 27, 2019,³ unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 C.F.R. § 1152.27(c)(2)⁴ must be filed by

² Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(2)(i).

³ CSXT initially submitted its verified notice on September 3, 2019. CSXT subsequently filed an updated affidavit certifying newspaper publication on September 9, 2019, which will be considered the filing date in the proceeding.

⁴ The filing fee for OFAs can be found at 49 C.F.R. § 1002.2(f)(25).

October 7, 2019.⁵ Petitions for reconsideration must be filed by October 17, 2019, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

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.

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

Decided: September 23, 2019.

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

⁵ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require environmental review.