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SERVICE DATE – FEBRUARY 18, 2016

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 55 (Sub-No. 753X)]

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

CSX Transportation, Inc. (CSXT), 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 1.6-mile rail line on its Southern Region, Huntington Division, CV Subdivision, Engineering Appalachian Division, also known as the Merna Spur from milepost 0MV 248.5 to milepost 0MV 250.1, in Harlan County, Ky. (the Line). The Line traverses United States Postal Service Zip Code 40818, and includes the station of Creech (FSAC 43739/OPSL 20395) at milepost 0MV 250.

CSXT has certified that: (1) no local traffic has moved over the Line for at least two years; (2) because the Line is not a through line, no overhead traffic has operated, and, therefore, none needs to 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 is pending either with the Surface Transportation 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) 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) to subsidize continued rail service has been received, this exemption will become effective on March 19, 2016, 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)¹ must be filed by February 29, 2016.² Petitions to reopen must be filed by March 9, 2016, 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.

¹ 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).

² Because this is a discontinuance proceeding and not an abandonment, interim 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 an environmental review.

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

Decided: February 12, 2016.

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