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SERVICE DATE – MARCH 23, 2022

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 806X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN ERIE COUNTY,
PA.

Decided: March 23, 2022

CSX Transportation, Inc. (CSXT), filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 0.5-mile rail line between Val Sta. 1576+25 and Val Sta. 170+35 on its Great Lakes Division, Erie West Subdivision, in Erie County, Pa. (the Line). Notice of the exemption was served and published in the Federal Register on February 22, 2022 (87 Fed. Reg. 9784). The exemption is scheduled to become effective on March 24, 2022.

The Board's Office of Environmental Analysis (OEA) served a Draft Environmental Assessment (Draft EA) on February 25, 2022, recommending that two conditions be imposed on any decision granting abandonment authority.

First, OEA stated that it received a letter from the Pennsylvania Department of Environmental Protection (DEP) commenting that, if salvage activities qualify as earth disturbance, CSXT would need to implement and maintain erosion and sediment controls, and if the earth disturbance were larger than one acre, CSXT would need a National Pollutant Discharge Elimination System (NPDES) Permit for stormwater discharges. To ensure appropriate consideration of the NPDES requirements, OEA recommended that CSXT be required to consult with DEP before commencing any abandonment-related salvage activities and comply with the reasonable NPDES requirements.

Second, OEA stated that DEP also indicated that the proposed abandonment is located within the Lake Erie Coastal Zone and would require coastal management consistency certification under the Coastal Zone Management Act of 1972, 16 U.S.C. §§ 1451-1465. OEA stated that CSXT requested comments from the Pennsylvania Coastal Resources Management Program, but that no comments had yet been received.. Accordingly, OEA recommended that CSXT be required to consult with the Pennsylvania Coastal Resources Management Program and obtain state coastal management consistency certification. OEA also recommended that CSXT be prohibited from filing its consummation notice or initiating any salvage activities related to abandonment, including removal of tracks and ties, until it reports the results of such consultations in writing to OEA and the Board has removed this condition.

OEA issued its Final Environmental Assessment (Final EA) on March 18, 2022, indicating that two new comments were received but that no additional mitigation is required in response to those comments. OEA continues to recommend that the two conditions previously recommended in the Draft EA be imposed. Accordingly, the two conditions recommended by OEA in the Final EA will be imposed.

This decision, and the proposed abandonment if implemented as conditioned, 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. The notice served and published in the Federal Register on February 22, 2022, exempting the abandonment of the Line described above is subject to the following conditions:¹

(a) Prior to commencement of any abandonment-related salvage activities, CSXT shall consult with DEP and comply with the reasonable NPDES requirements.

(b) CSXT shall consult with the Pennsylvania Coastal Resources Management Program and obtain state coastal management consistency certification. CSXT shall not file its consummation notice or initiate any salvage activities related to abandonment, including removal of tracks and ties, until it reports the results of these consultations in writing to OEA and the Board has removed this condition.

3. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

¹ If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 is reached for the Line (or a portion thereof), compliance with the conditions set forth below is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.