

32656

SERVICE DATE - APRIL 19, 2002

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

DOCKET NO. AB-565 (Sub. No. 8X)

**New York Central Lines, LLC – Abandonment Exemption –
in Delaware County, OH**

BACKGROUND

In this proceeding, New York Central Lines, LLC (NYC), and CSX Transportation, Inc. (CSXT), (collectively, applicants) jointly filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 for NYC to abandon and CSXT to discontinue service over a portion of a line of railroad in Delaware County, OH.¹ The portion of the rail line proposed for abandonment and discontinuance spans approximately 1.5 miles from Milepost QED 114.1 to Milepost QED 115.6 in Delaware, Ohio.² A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, NYC will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to the applicants, there has been no local traffic on the line for the past two years. Overhead freight traffic will be diverted to another CSXT rail line with the construction of a track connection. Applicants state that the proposed abandonment would result in the removal of the rail, crossties, and possibly the upper layer of ballast.

Applicants believe that the abandonment will result in improvement to public health and safety by the elimination of 5 grade crossings. In addition, the public may benefit as a result of the City's interest in turning this section of the rail corridor into a trail.

¹ This case embraces STB Docket No. AB-55 (Sub. No. 608X), CSX Transportation, Inc. – Discontinuance of Service Exemption – in Delaware County, OH.

² CSX Corporation, CSXT's parent company, and Norfolk Southern Corporation jointly acquired control of Conrail, Inc., and its wholly owned subsidiary, Consolidated Rail Corporation (Conrail). As a result of that acquisition, certain assets of Conrail have been assigned to NYC, a wholly owned subsidiary of Conrail, to be exclusively operated by CSXT pursuant to an operating agreement. The line to be abandoned is included among the property being operated by CSXT pursuant to the NYC operating agreement.

The right-of-way is located within the city limits of Delaware, Ohio, and applicants state that the width of the right-of-way ranges from 15 feet to 150 feet from the centerline of the track.

According to the applicants, abandonment will be accomplished by use of the right-of-way for access, along with existing public and private crossings, and no new access roads are contemplated. Applicants would not disturb any of the underlying roadbed or perform any activities that would cause sedimentation or erosion of the soil, and do not anticipate any dredging or use of fill in the removal of the track material. The crossties and/or other debris will be transported away from the rail line and will not be discarded along the right-of-way nor be placed or left in streams or wetlands, or along the banks of such waterways. During track removal, appropriate measures will be implemented to prevent or control spills from fuels, lubricants or any other pollutant materials from entering waterways.

ENVIRONMENTAL REVIEW

The applicants submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The applicants served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. We have reviewed and investigated the record in this proceeding.

There are three CSXT-owned bridge structures that are 50 years old or older that are part of the proposed abandonment. Bridge No. 114.15, built in 1906, crosses State Rt. 36. Bridge No. 114.33, built in 1913, crosses State Rt. 23 and the Olantangy River. Bridge No. 114.56, built in 1909, crosses Henry Street. The Ohio Historical Society, Historic Preservation Division has not yet completed the assessment of the potential impact of this project on historic resources, and we, therefore, recommend a condition to address this concern.

The National Geodetic Survey has advised us that four geodetic station markers have been identified that may be affected by the proposed abandonment.

The U.S. Department of the Interior, Fish and Wildlife Service, Ecological Services, Reynoldsburg, Ohio Office, has advised us that the proposed project is within the range of the Federally endangered Indiana bat (*Myotis sodalis*). Summer habitat requirements for the species include: dead or live trees and snags with peeling or exfoliating bark, split tree trunk and/or branches, or cavities, which may be used as maternity roost areas; live trees (such as shagbark hickory) which have exfoliating bark; and stream corridors, riparian areas, and upland woodlots which provide forage sites. Accordingly, we recommend a condition to avoid or minimize potential impacts to the summer habitat of this species.

The U.S. Department of the Interior, Fish and Wildlife Service, Ecological Services, Reynoldsburg, Ohio Office, has advised us that the proposed project is within the range of the Federally threatened bald eagle (*haliaeetus leucocephalus*). Accordingly, we recommend a condition to avoid or minimize potential impacts to this species.

CONDITIONS

We recommend that the following four environmental conditions be placed on any decision granting abandonment authority:

1. Applicants shall retain their interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.
2. The National Geodetic Survey (NGS) has identified four geodetic station markers that may be affected by the proposed abandonment. Therefore, applicants shall notify NGS 90 days prior to salvage activities in order to plan their relocation.
3. To comply with the U.S. Department of the Interior, Fish and Wildlife Service's concerns regarding the summer habitat of the Federally endangered Indiana bat that may be within the area, applicants shall save trees exhibiting characteristics of Indiana bat habitat wherever possible. If the trees must be cut, they should not be cut between April 15 and September 15. If this time restriction is unacceptable, a survey to determine if bats are present shall be conducted in coordination with the U.S. Department of the Interior, Fish and Wildlife Service, Ecological Services, Reynoldsburg, Ohio Office endangered species coordinator.
4. To comply with the U.S. Department of the Interior, Fish and Wildlife Service's concerns regarding Federally threatened bald eagles that may be nesting within the area, applicants shall, prior to any salvage activities on this project, contact the Ohio Division of Wildlife for the location(s) of the eagle nest(s) in the county. If any nests are located within ½ mile of the project site, applicants shall notify and further coordinate abandonment activities with the U.S. Department of the Interior, Fish and Wildlife Service, Ecological Services, Reynoldsburg, Ohio Office.

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, you should send an **original and two copies** to Vernon A. Williams, Office of the Secretary, Washington, DC 20423, to the attention of Kenneth Blodgett, who prepared this environmental assessment. **Please refer to Docket No. AB-565 (Sub-No. 8X) in all correspondence addressed to the Board.** If you have questions regarding this environmental assessment, you should contact Kenneth Blodgett, the environmental contact for this case by phone at (202) 565-1554, fax at (202) 565-9000, or e-mail at blodgettk@stb.dot.gov.

Recent events involving a principal postal facility within Washington, D.C., may affect for a period of time the receipt of materials mailed to the Board, as well as customer receipt of reply mail sent from the Board. Until the timely delivery of mail has been reestablished, the Section of Environmental Analysis (SEA) requests that individuals filing comments regarding this or other environmental assessments take the following additional steps to ensure receipt of their correspondence during the comment period:

1. Telephone or e-mail the environmental contact indicated above prior to the close of the comment period and inform them that you have mailed a comment.
2. If the comment has not been received, the environmental contact will discuss alternative modes of delivery.

3. Retain a copy of your comment for your records should alternative modes of delivery be necessary.

SEA is committed to carrying out its duties to the public and regrets any inconvenience these new procedures may cause.

Date made available to the public: **April 19, 2002.**

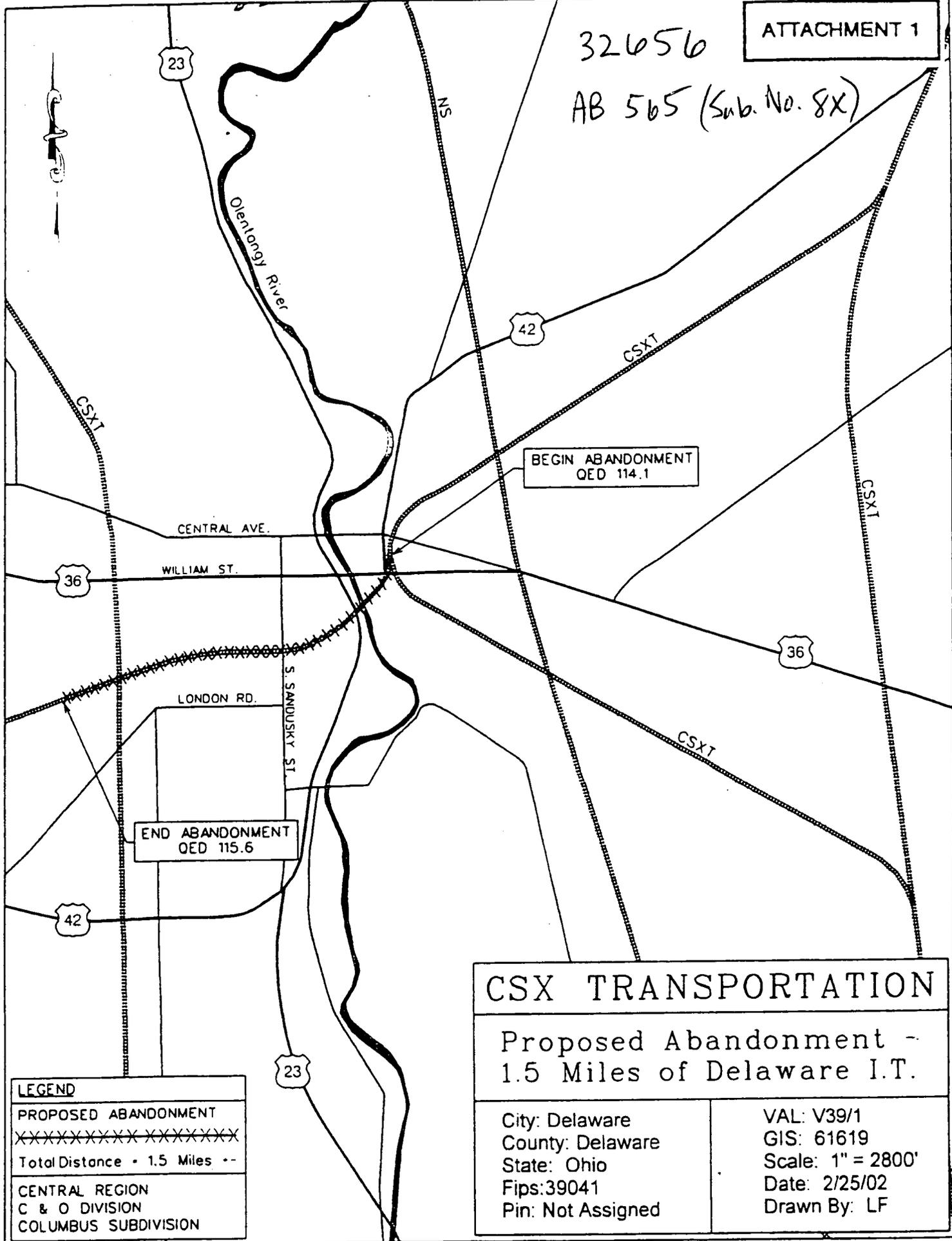
Comment due date: May 5, 2002.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment

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LEGEND
 PROPOSED ABANDONMENT
 XXXXXXXXXXXXXXXXXXXX
 Total Distance - 1.5 Miles --
 CENTRAL REGION
 C & O DIVISION
 COLUMBUS SUBDIVISION

CSX TRANSPORTATION	
Proposed Abandonment - 1.5 Miles of Delaware I.T.	
City: Delaware	VAL: V39/1
County: Delaware	GIS: 61619
State: Ohio	Scale: 1" = 2800'
Fips: 39041	Date: 2/25/02
Pin: Not Assigned	Drawn By: LF