

SURFACE TRANSPORTATION BOARD

ENVIRONMENTAL ASSESSMENT

Docket No. AB 55 (Sub-No. 745X)

**CSX Transportation, Inc. – Abandonment Exemption
in Floyd County, KY**

BACKGROUND

In this proceeding, CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 C.F.R. §1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of an 11.4-mile line of railroad in the Southern Region, Huntington West Division, Middle Creek Subdivision. The rail line proposed for abandonment extends approximately between Milepost COQ 0.0, near Prestonsburg and Milepost 10.1 in David, Floyd County, KY (the “Line”).¹ If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA).

ENVIRONMENTAL REVIEW

CSXT submitted an Environmental Report that concludes the quality of the human environment will not be significantly affected as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way.² CSXT served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board’s (Board) environmental rules [49 C.F.R. § 1105.7(b)].³ The Board’s Office of Environmental Analysis (OEA) has reviewed and

¹ The line includes a small spur that extends south from the main line north of COQ7 (see map).

² Abandonment authority was originally granted in this proceeding under AB 55 (Sub No. 645X), served February 9, 2004. However, rather than consummate the abandonment, CSXT temporarily leased the line to a coal company for private use. (During that time, CSXT also states that it engaged in trails use negotiations for the line under a NITU served on March 9, 2004 and expired on February 23, 2008.) The lease on the line expired and CSXT is refiling the line for abandonment.

³ The Environmental and Historic Reports are available for viewing on the Board’s website at www.stb.dot.gov by going to “E-Library,” selecting “Filings,” and then conducting a

investigated the record in this proceeding.

Diversion of Traffic

In its environmental report, CSXT states that no local traffic has moved over the line in the last two years and all overhead traffic “can be and has been rerouted.” Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

The rail line proposed for abandonment is located in a rural setting. The rail right-of-way is approximately 50 feet from the centerline of the track.

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, and dismantling of any structures that may be present on the rail right-of-way. In its historic report, CSXT writes that it intends to remove rail, crossties, and possibly the upper layer of ballast during salvage activities. CSXT states that it does not intend to disturb any sub-grade structures. CSXT explains that it intends to negotiate a trails-use agreement under a Notice of Interim Trails Use (NITU). Consequently, CSXT indicates that it does not plan to remove any trail related structures such as bridges, trestles, culverts or tunnels.

The Mayor of Prestonsburg contacted CSXT indicating its interest in seeing the line converted into a rail trail for recreational purposes. The City of Prestonsburg filed a NITU and Public Use Condition with the Board on November 2, 2015.

The Natural Resources Conservation Service (NRCS) provided comments to CSXT stating that no significant impacts to prime farmland or farmland of state wide importance are anticipated from the proposed action as long as salvage activities are confined to the existing right-of-way and those areas previously converted to non-framing uses. NRCS included a map and associated classification key with its comments to CSXT indicating areas near the line identified as important farmland. OEA advises CSXT to adhere to the recommendations provided by NRCS and to examine the NRCS map of prime farmlands prior to conducting any salvage activities. NRCS advises CSXT to contact its District Conservationist for Floyd County should it have any questions or concerns regarding potential impacts to prime farmlands.

CSXT received comments from the Kentucky Department of Environmental Protection Agency (DEP). In its comments, DEP states that there are no Outstanding Resource Waters, Wild Rivers or known Exceptional Waters within the project area. DEP advises that CSXT use best management practices to protect water sources during salvage operations. DEP states that

CSXT should protect against flooding as the project area is prone to high water and flooding. DEP further advises CSXT to dispose of any waste appropriately and protect against air quality and other environmental impacts.

The Kentucky Division of Water provided comments to CSXT indicating that a permit would be required should CSXT disturb more than 1.0 acre during any post abandonment salvage activities. Otherwise, no permit would be required. OEA does not believe that any permits would be required as CSXT would not affect more than 1.0 acre during any post abandonment salvage activities.

The National Geodetic Survey (NGS) has indicated that nine geodetic station markers could be affected as a result of any post abandonment salvage activities. OEA therefore recommends a condition requiring CSXT to contact NGS prior to any salvage activities regarding impacts to any geodetic station markers.

OEA believes that any air emissions and noise typically associated with salvage operations would be minimal.

Based on all information available to date, OEA does not believe that salvage activities would cause significant environmental impacts. OEA has not received comments from several state and federal agencies including the US Environmental Protection Agency, the US Army Corps of Engineers and the US Fish and Wildlife Service. OEA is therefore sending a copy of the EA to these agencies for their review and comment.

HISTORIC REVIEW

CSXT submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Kentucky Heritage Council (State Historic Preservation Office or SHPO) pursuant to 49 C.F.R. § 1105.8(c).

According to CSXT, the line traverses the Middle Creek National Battlefield, a National Historic Landmark. In addition, CSXT states the line includes 13 bridges 50 years or older that meet the minimum qualifications for listing on the National Register of Historic Places (National Register).

The SHPO has not provided its opinion regarding the proposed action.⁴ OEA therefore recommends a condition requiring CSXT to retain its interest in and take no steps to alter the

⁴ The SHPO provided an opinion in 2004 in response to the CSXT filing under AB 55 (Sub-No. 645X) which included the current proposed abandonment area (letter included as Attachment 4 in historic report for current proceeding). At that time, the SHPO determined that none of the bridges associated with that action were eligible for listing in the National Register. The SHPO also stated that it hoped that the NITU filed at the time by the Middle Creek National Battlefield Foundation would result in the formation of a rail trail as it would have "immense benefit to the public and to cultural historic properties."

historic integrity of all historic properties on the rail line including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108 has been completed.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally recognized tribes that may have ancestral connections to the project area.⁵ The database identified four federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the APE of the proposed abandonment. The tribes are: the Delaware Nation of Oklahoma, the Eastern Band of Cherokee Indians; the Miami Tribe of Oklahoma; and the Peoria Tribe of Indians of Oklahoma. OEA is sending a copy of this EA to these tribes for review and comment.

CONDITIONS

We recommend that the following two conditions be imposed on any decision granting abandonment authority:

1. CSXT shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.
2. CSXT shall retain its interest in and take no steps to alter the historic integrity of all historic properties on the rail line including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108 has been completed. CSXT shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the State Historic Preservation Office and the public. CSXT may not file its consummation notice or initiate any salvage activities related to the abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSION

Based on the information provided from all sources to date, OEA concludes that, as currently proposed and with the imposition of the environmental conditions, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

⁵ Native American Consultation Database, <http://grantsdev.cr.nps.gov/Nagpra/NACD/> (last visited November 2, 2015).

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 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice. The City of Prestonsburg, KY filed a request for a Public Use Condition on November 2, 2015.

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 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 C.F.R. § 1152.29). The City of Prestonsburg, KY filed a NITU with the Board on November 2, 2015.

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Catherine Nadals, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 55 (Sub-No. 745X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Catherine Nadals, the environmental contact for this case, by phone at (202) 245-0293, fax at (202) 245-0454, or e-mail at nadalsc@stb.dot.gov.

Date made available to the public: November 3, 2015.

Comment due date: November 19, 2015.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment