

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

**Docket No. AB-167 (Sub No. 1191X), Consolidated Rail Corporation – Abandonment
Exemption – in Philadelphia, Pa.**

**Docket No. AB 55 (Sub No. 710X), CSX Transportation, Inc. – Discontinuance
Exemption – Philadelphia, Pa.**

**Docket No. AB 290 (Sub No. 552X), Norfolk Southern Railway Company – Discontinuance
Exemption – in Philadelphia, Pa.**

BACKGROUND

On January 5, 2012, Consolidated Rail Corporation (Conrail), CSX Transportation, Inc. (CSX), and Norfolk Southern Railway Company (NSR) jointly filed a notice under 49 U.S.C § 10502 seeking exemption from the provisions of 49 U.S.C. § 10903 to permit Conrail to abandon and CSX and NSR to discontinue service over approximately 2.98 miles of rail line between milepost 0.00 to approximately milepost 2.98 at the end of the line, also known as the Berk's Street Industrial Track, in the City of Philadelphia, PA (the Line). A map depicting the Line in relationship to the area served is attached to this Environmental Assessment (EA).

Conrail states that it owns only a portion of the Line proposed for abandonment and discontinuance, from milepost 2.70 at Indiana Avenue to milepost 2.98. The Line from milepost 0.00 to milepost 2.70 was sold to the City of Philadelphia (City) in 1978 with Conrail retaining operating rights. The Line has been out of service for at least two years (although, as explained below, Conrail believes that rail service ceased on the Line at least 20 years ago), and a portion of the Line has been salvaged. Conrail explains that the Line is intact from milepost 0.60 to approximately milepost 2.98. Only the track from milepost 0.00 to approximately milepost 0.60 has been salvaged.¹ Conrail believes that some, if not all, of the tracks between milepost 0.00 and approximately milepost 0.60 was removed sometime around the year 2000. Conrail has no record of a developer or the City seeking permission from Conrail for the removal of the tracks in this area.

The City purchased the segment of the Line from milepost 0.00 to milepost 2.70 as part of a redevelopment project to attract rail-served industry. This segment of the Line was rebuilt

¹ A representative of OEA inspected the Line in the area of Thompson Street, milepost 0.60, and verified that this section has been salvaged.

into a single-track line with approximately 15 sidings. The City's attempt at attracting rail-served industry never materialized and in fact, many of the newly constructed sidings never saw a single rail car.

Conrail explains that the purpose of the abandonment between milepost 2.70 and milepost 2.98 is two-fold: 1) the removal of the bridge located at milepost 2.92 that is the subject of a pending Pennsylvania Public Utility Commission bridge removal proceeding brought by the City of Philadelphia and 2) the sale of the section of the Line between milepost 2.70 through milepost 2.92 to a private developer for commercial development.

DESCRIPTION OF THE RAIL LINE

The Line is located in an urban area with mixed uses consisting of residential, commercial, and industrial. The topography surrounding the Line is generally level. The width of the right-of-way varies: is approximately 112 feet wide at its intersection with the south side of Allegheny Avenue, 92 feet wide at the north side of Allegheny Avenue, and 68 feet wide at the northern end of to be abandoned. The right-of-way is 117 feet wide at the intersection with Indiana Avenue and 120 feet wide on American Street. The Line traverses United States Postal Service Zip Codes 19122, 19123, and 19134.

According to Conrail, the Line includes 2 railroad bridges that are 50 years old or older. According to Conrail, the bridge located at milepost 2.80, which crosses Allegheny Avenue, was constructed in 1946 while the bridge located at milepost 2.92, which crosses Conrail's Richmond Industrial Track, was constructed in 1901.

ENVIRONMENTAL REVIEW

Conrail submitted an Environmental Report that concludes that 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. Conrail served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules (49 C.F.R. § 1105.7(b)).² The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

As noted above, the Line has been out of service for more than 20 years and as such, no rail-to-truck diversions would occur. Therefore, OEA believes that there would be no impact on existing regional or local transportation systems or patterns. Furthermore, because no rail traffic

² 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 search for AB 167 (Sub No. 1191X).

has moved over the Line in more than 20 years there would be no effect on the movement and/or recovery of energy resources, recyclable commodities or change in overall energy efficiency.

The Pennsylvania Department of Transportation states that it has no comments on the proposed abandonment. In addition, the Department of Army, Railroads for National Defense Program, states that the Line is not needed for the moving of military cargo by rail and therefore does not plan to oppose or file comments regarding the proposed abandonment.

Salvage Activities

If the Board should approve the proposed abandonment and discontinuance, Conrail would salvage the portions of the Line that remain. Conrail notes that it would also remove the rail bridge located at milepost 2.92, which is part of a proceeding before the Pennsylvania Public Utilities Commission (PUC).³ If the abandonment is approved, salvage generally occurs as follows:

All remaining track structures would be removed from the existing railbed. The contours of the existing railbed along with all existing drainage systems would remain intact. No digging or burying of any kind would be permitted following removal of the track and ties. All steel track materials would be reused or sold as scrap, while crossties would be reused or disposed of in accordance with applicable federal and state laws and regulations.

According to Conrail, it is unaware of any inconsistencies of the proposed abandonment with existing land use plans.

The City states that it supports the proposed abandonment provided that the following conditions are satisfied:

1. Deed(s) for the parcel(s) are recorded with the Record's Department.
2. Where the Line crosses under a City Street, the abutting land including slope easement shall be dedicated to the City easement so that it can maintain the bridge structures.
3. Where the Line crosses over City Streets, the superstructures and appurtenances shall be removed.
4. All railroad ties and ballast shall be removed and the area cleaned of debris, trash and overgrowth.

Accordingly, OEA will recommend a condition requiring Conrail to consult with the City prior to initiating salvage activities.

³The rail bridge at milepost 2.92 is the subject of a pending PUC bridge removal proceeding brought by the City of Philadelphia.

The Pennsylvania Department of Environmental Protection, Coastal Resources (PADEP-CR), states that the portion of the Line located between milepost 0.00 and U.S. Interstate 95 lies within the State's Coastal Zone and is subject to Federal Consistency Review. PADEP-CR has determined that the proposed abandonment and discontinuance is consistent with Pennsylvania's Coastal Resources Management Program.

Conrail states for actions related to the removal of the bridge located at milepost 2.92, the Pennsylvania Department of Environmental Protection, Stormwater Section (PADEP-SW), has responded that a National Pollutant Discharge Elimination Systems (NPDES) Permit is required for earth disturbance activities of 5,000 square feet or more. The PADEP-SW also notes that it may require an Erosion and Sediment Plan. In response, Conrail states that the total area to be disturbed is 6,970 square feet of which a much smaller portion would result in actual soil disturbance. To address the concerns raised by the PADEP-SW, OEA will recommend a condition that Conrail consult with PADEP-SW prior to initiating any salvage activities and abide by the reasonable requirements prescribed by PADEP-SW.

According to Conrail, the proposed abandonment and discontinuance would result in no clearing, grading, or alteration of the topography. Furthermore, no dredging or discharge of dredge or fill materials into navigable waters would occur. The U.S. Army Corps of Engineers states that, as proposed, the abandonment and discontinuance would not involve any regulated activities.

According to Conrail, it does not believe that any federally listed endangered species or their habitats would be adversely affected by the proposed abandonment. Furthermore, Conrail notes that the Line does not pass through any state parks or forests, national parks or forests, or wildlife sanctuaries. The U.S. Fish and Wildlife Service, Pennsylvania Field Office, states that there are no federally listed species are known or likely to occur in the project area.

Conrail states that there are no known hazardous waste sites or sites where known hazardous material spills have occurred on or along the right-of-way.

The U.S. Department of Commerce, National Geodetic Survey (NGS) has not completed its review of the proposed abandonment. Therefore, SEA has added NGS to the service list for this EA and specifically invites NGS's comments on this EA.

Based on all information available to date, and if the Board imposes the recommended mitigation, OEA does not believe that salvage activities would cause significant environmental impacts.

HISTORIC REVIEW

The Line was originally constructed by the North Penn Railroad (NPR), sometime between the years 1853 and 1879. In 1879, NPR was leased to the Philadelphia and Reading Railway (PRR). The PRR eventually became part of the Reading Railroad Company. The Berks

Street Industrial Track is often referred to as a portion of the Bethlehem Branch of the Reading Railroad.

The Line includes 2 rail bridges that are 50 years old or older. The bridge located at milepost 2.80, which crosses Allegheny Avenue, was constructed in 1946. The bridge located at milepost 2.92, which crosses Conrail's Richmond Industrial Track, was constructed in 1901.

As noted above, the rail bridge located at milepost 2.92 is currently being reviewed by the PUC for removal. Conrail believes that site of the Line and the railroad structures do not meet the criteria for listing on the National Register of Historic Places and also notes that it does not believe that there is any likelihood of archeological resources or any other previously unknown historic property on the Line.

Conrail served the Historic Report as required by the Board's environmental rules (49 C.F.R. § 1105.8(a)) and served the report on the Pennsylvania Historical and Museum Commission, Bureau of Historic Preservation (SHPO) pursuant to 49 C.F.R. § 1105.8(c).⁴ The SHPO, in a letter dated August 2, 2011, states that although historic buildings, structures and/or archaeological resources may be located in the area, the proposed abandonment and discontinuance should have no effect on these resources.

Pursuant to the section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.dot.gov>. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

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 indicated that there are no tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment.

⁴ Guidance regarding the Board's historic preservation review process is available on the Board's Web site at: <http://www.stb.dot.gov/stb/environment/preservation.html>.

⁵ Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited January 20, 2012).

CONDITIONS

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

- 1. Consolidated Rail Corporation (Conrail) shall consult with the City of Philadelphia regarding its concerns prior to initiating any salvage activities. Conrail shall report back to OEA the results of its discussions.**
- 2. Consolidated Rail Corporation (Conrail) shall consult with the Pennsylvania Department of Environmental Protection, Stormwater Section, prior to initiating any salvage activities and shall comply with all reasonable requirements prescribed. Conrail shall report back to OEA the results of its discussions.**

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, that 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

Conrail states that other than the sale of milepost 2.70-2.92 of the Line to a developer for commercial development, it is not aware of alternative public purposes for which the property may be suitable. Nevertheless, following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite 4-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.

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).

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 original and 2 copies to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Troy Brady, 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 167 (Sub No. 1191X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Troy Brady, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at Troy.Brady@stb.dot.gov.

Date made available to the public: January 30, 2012.

Comment due date: February 14, 2012.

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

Attachment