

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB 55 (Sub-No. 706X)**

**CSX Transportation, Inc. – Abandonment Exemption –  
in Erie County, N.Y.**

**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 a line of railroad in Erie County, New York. The rail line proposed for abandonment, known as the Erie Running Track, extends approximately 0.56 miles from milepost QCQ 5.02 near E. Ferry Street to milepost QCQ 5.58, near E. Delavan Avenue in Buffalo (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

**ENVIRONMENTAL REVIEW**

CSXT submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. 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)).<sup>1</sup> The Board's Office of Environmental Analysis (OEA)<sup>2</sup> has reviewed and investigated the record in this proceeding.

The Line traverses an industrial area northwest of downtown Buffalo between E. Delavan Street (North), E. Ferry Street (South), Cornwall Avenue (West), and Leslie Street (East). The width of the right-of-way is approximately 100 feet.

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<sup>1</sup> The Environmental and Historic Reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB 55 (Sub-No. 706X).

<sup>2</sup> OEA was formerly known as the Board's Section of Environmental Analysis (SEA). The name change from SEA to OEA became effective on September 1, 2010.

The Line's only two customers, General Motors and American Axle Manufacturing, have not generated any originating or terminating traffic in over 2 years. General Motors relocated to a new plant in 2001 at a different location in Buffalo. American Axle Manufacturing sold its plant in December 2008. The proposed abandonment would allow the reclassification of the Line to industrial track. This reclassification would allow CSXT to lease or sell a segment of the Line to East Delavan Property. East Delavan Property plans to remove the tracks and redevelop the site along with adjacent parcels that the developer already owns.

The Line was originally part of the Erie Railroad. The Erie Railroad merged with the Delaware, Lackawanna and Western Railroad in 1960 to form the Erie-Lackawanna Railroad, which became the Erie Lackawanna Railway (EL) in 1968. EL filed for bankruptcy in 1972. Most of EL's assets were purchased by the federal government and merged with other companies' railroad assets to form Conrail in 1976. This line was acquired by CSXT when the property conveyed from Conrail to CSXT on June 1, 1999.

CSXT is not aware of any significant or unique characteristics of the Line that would warrant consideration for listing on the National Register of Historic Places. CSXT states that the Line is not associated with any event that has made a contribution to the broad patterns of history and is not associated with lives of persons significant to the past. CSXT does not feel that the Line embodies any distinctive characteristics of a significant and distinguishable type, period or method of construction. There are no stations on the line or CSXT-owned structures that are 50 years old or older that may be eligible for listing in the National Register of Historic Places. CSXT does not know of any archeological resources or any other previously unknown historic properties in the project area. The right-of-way was disturbed during construction by cuts and fill and any archeological resources that may have been located along the Line would most likely have been affected at that time.

CSXT does not believe that the Line is appropriate for other public purposes. The Line may be subject to reversionary interests that may affect transfer of title for other than rail purposes. Based on information in CSXT's possession, the Line does not contain federally granted rights-of-way.

### ***Diversion of Traffic***

According to CSXT, no local traffic has moved over the Line for at least 2 years and any overhead traffic has been rerouted over other lines. 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*

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

CSXT indicates that abandonment of the Line would result in the removal of the rail, crossties, and possibly the upper layer of ballast. CSXT does not intend to disturb any sub grade or sub grade structures. The operations and maintenance of the Line would cease. Upon receiving abandonment authority, removal of material would 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. CSXT does not intend to disturb any of the underlying road-bed or perform any activities that would cause sedimentation or erosion of the soil, and does not anticipate any dredging or use of fill in the removal of the track material. The crossties and/or other debris would be transported away from the rail line and would not be discarded along the right-of-way nor be placed or left in streams or wetlands, or along the banks of such waterways. Also, during track removal, appropriate measures would be implemented to prevent or control spills from fuels, lubricants or any other pollutant materials from entering any waterways.

The New York State Department of Environmental Conservation, Division of Environmental Permits, Region 9 (NYDEC) has indicated that the project site is not within a State Regulated Freshwater Wetland. The portion of Scajacquada Creek that crosses the section of the Line proposed to be abandoned is not a protected stream. Therefore, neither an Article 24 Freshwater Wetland Permit nor an Article 15 Protection of Waters Permit would be required for salvage activities related to the proposed abandonment. Based on CSXT's description of the proposed work, the abandonment and related salvage activities would be consistent with applicable NYDEC water quality standards.

CSXT states that no permit under Section 404 of the Clean Water Act would be required. CSXT does not contemplate any action known to be inconsistent with federal, state and/or local water quality standards. CSXT would comply with reasonable state and federal regulations and obtain any necessary permits required.

CSXT believes that the proposed action is consistent with local land use plans. While some prime farmland may exist in the vicinity of this project, CSXT feels the simple removal of track material should not have an adverse impact on farmlands.

CSXT indicates that the abandonment would have no effect on public health or safety. CSXT's records do not indicate any known hazardous material spills or hazardous waste sites within the project area. CSXT records do not indicate that any swampy conditions exist. CSXT is not aware of any designated wetlands or 100-year flood plains within the proposed project area. CSXT does not believe that the removal of track material would have an adverse impact on any coastal zone, land or water uses.

Based on CSXT's intention to remove only the track material and the upper layer of ballast, CSXT does not believe that any federally endangered or threatened species would be negatively affected or critical habitats modified if the Line is abandoned. No national or state parks, forests or refuges would be affected by the proposed abandonment.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, OEA does not believe that salvage activities would cause significant environmental impacts

### **HISTORIC REVIEW**

CSXT served the Historic Report on the New York State Historic Preservation Office (SHPO), pursuant to 49 C.F.R. § 1105.8(c). OEA has not heard from the SHPO and therefore has not been able to consider the SHPO's opinion before determining if the rail line may be potentially eligible for listing on the National Register of Historic Places. Accordingly, we are recommending a condition requiring CSXT to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. 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.<sup>3</sup> The database indicated that the following federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment: Seneca Nation of New York and Tonawanda Band of Seneca Indians of New York. Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

### **CONDITIONS**

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

**CSX Transportation, Inc. (CSXT) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings,**

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<sup>3</sup> Native American Consultation Database, <http://home.nps.gov/nacd/> (last visited May 31, 2011).

**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, 16 U.S.C. § 470f, has been completed. CSXT shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the New York State Historic Preservation Office (SHPO) and the public. CSXT may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.**

## **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is imposed, abandonment of the line would 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 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 Kenneth Blodgett, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB 55 (Sub-No. 706X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Kenneth Blodgett by phone at (202) 245-0305, fax at (202) 245-0454, or e-mail at [blodgettk@stb.dot.gov](mailto:blodgettk@stb.dot.gov).

Date made available to the public: June 3, 2011.

**Comment due date: June 20, 2011.**

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

Attachment