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OEA

SERVICE DATE – APRIL 22, 2013

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB-55 (Sub No. 726X)
CSX Transportation, Inc. — Abandonment and Discontinuance of Service Exemption —
in the City of Richmond and Henrico County, Va.

and

Docket No. AB-290 (Sub No. 303X)
Norfolk Southern Railway Company — Abandonment and Discontinuance of Service
Exemption — in the City of Richmond and Henrico County, Va.

BACKGROUND

On February 21, 2013, CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NSR) (collectively, Petitioners) jointly filed a petition with the Surface Transportation Board (Board) a petition under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon and discontinue service over a 1.55 miles of railroad line known as the James River Industrial Track, between State Road 5 and the end of the line in the City of Richmond and Henrico County, VA (Line). A map depicting the Line in relationship to the area served is attached to this Environmental Assessment (EA).

CSXT and NSR state that they have submitted a joint filing because they each own a different portion of the Line and are both authorized to operate over the entire Line.

According to the Petitioners, the last shipper on the Line, Lehigh Cement Company, LLC (Lehigh), has moved to another location and does not oppose the proposed abandonment and discontinuance. CSXT provided rail service until Lehigh ceased operations on October 31, 2012, while NSR ceased all operations over the Line more than two years ago. CSXT states that it handled 599 incoming and outgoing railcars between November 1, 2011 and October 31, 2012.¹ There is no overhead rail traffic on the Line. Moreover, CSXT and NSR state that they are seeking abandonment and discontinuance of the Line to facilitate the plans of the City of Richmond (City) and Henrico County (County) to use the Line for trail purposes.

¹ Railcar data was provided by representative of CSXT via email dated March 31, 2013.

DESCRIPTION OF THE RAIL LINE

The Line runs parallel to the James River passing through areas that are primarily urban and industrial in nature. The width of the right-of-way varies from between thirteen (13) to seventeen (17) feet, contains no mileposts, and traverses United States Postal Service Zip Code 23231.

The Petitioners note that the Line does not contain any structures that are 50 years old or older and does not contain any federally granted rights-of-way. CSXT and NSR also note that the Line may be suitable for other public purposes but may be subject to reversionary interests that may affect transfer of title for other than rail purposes.

ENVIRONMENTAL REVIEW

CSXT and NSR have 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. CSXT and NSR 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 earlier, Lehigh the only shipper using the Line, ceased operations on October 21, 2012. CSXT states that, between November 1, 2011 and October 31, 2012 it handled 599 incoming and outgoing railcars cement and cement materials. NSR ceased all operations over the Line more the two years ago. Pursuant to Lehigh's lease agreement with the City, Lehigh was entitled to use the Line until October 31, 2012. Lehigh has agreed to relocate allowing the City and County to complete the Virginia Capitol Trail.

According to the Petitioners, there would be a temporary impact on existing regional and/or local transportation systems/patterns. CSXT states that shipments from Lehigh's facility in Union Bridge, MD are currently being transported approximately 163 miles by truck to its facility in Richmond, VA. However, shipments by truck would cease when Lehigh's new facility becomes operational in 2015. At that time, CSXT would transport all Lehigh shipments from Union Bridge, MD directly to its new facility.³

²The 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 55 (Sub No. 726X).

³This information was provided by a representative of CSXT via email dated April 3, 2013.

In an email dated April 10, 2013, CSXT states that approximately 2,400 trucks per year would temporarily be diverted to local and/or regional roadways from the Union Bridge facility to the Richmond facility. On a per day basis, this translates to approximately 10.9 trucks per day one way. It is important to note that OEA is assuming an empty backhaul, which translates into approximately 21.8 trucks per day traveling on roadways between Union Bridge, MD and Richmond, VA.⁴ The proposed abandonment and discontinuance, if approved, would result in approximately 2,400 additional trucks or 4,800 additional truck trips annually.

According to Lehigh, all truck traffic currently travels a short distance on Maryland Highway 75 before connecting to U.S. Interstates 270 and 95 to Richmond, VA. The trucks exit U.S. Interstate 95 and travel approximately one mile to Lehigh. Therefore, based on the information above, OEA does not believe that a temporary increase of 21.8 trucks per day would result in adverse impacts to local and/or regional roadways.

CSXT states that it is also working with Lehigh to establish a transload arrangement that would allow for shipments to move by rail from Union Bridge, MD to either the Fulton Rail Yard or ACCA Rail Yard in Richmond, VA for delivery via truck. If the arrangement is completed, this would reduce the mileage traveled by trucks on local/regional roadways.

CSXT and NSR also note that public safety would be enhanced by the elimination of two public and one private at-grade crossings.

The Petitioners opine that there would be no effect on the movement and/or recovery of energy resources, recyclable commodities or change in overall energy efficiency.

Salvage Activities

If the abandonment and discontinuance are approved, the Petitioners state that they intend to salvage the track, ties and other track materials and that salvage would occur as follows:

CSXT and NSR would access the Line via existing right-of-ways along existing public and private at-grade crossings. The underlying roadbed would not be disturbed and no activities would be undertaken that cause sedimentation or erosion of the soil. The Petitioners do not anticipate any dredging or use of fill in removal of the track materials. The crossties and/or other debris would be transported away from the Line and not discarded along the right-of-way nor be placed or left in streams or wetlands, or along the banks of such waterways. Track removal would involve appropriate measures to prevent or controls of spills from fuels, lubricants or any other pollutant materials from entering any waterways.

Lehigh states that the proposed abandonment and discontinuance would not have an adverse impact on its Richmond, VA operations and therefore does not oppose the abandonment. Furthermore, Lehigh encourages the abandonment process to begin as soon as possible.

⁴ OEA spoke with Mr. Ken Hundley, Lehigh, on April 9, 2013. Mr. Hundley indicated that Lehigh works a 220 day year.

The Virginia Department of Transportation concurs with the proposed abandonment and discontinuance and supports the conversion of the Line for use by non-motorized transportation as part of the Virginia Capital Trail.

The City requests that the Board issue a Public Use Condition as well as a Notice of Interim Trail Use rather than outright abandonment of the Line. The Petitioners have agreed to negotiate with the City toward a possible interim trail use/rail banking arrangement for the Line.

The City's Department of Public Works states that its Riverfront Master Plan includes development of the Virginia Capital Trail which includes the Line proposed for abandonment and discontinuance. The Richmond Riverfront phase would link the City and County and complete the final phases of the State's project consisting of a 55-mile long pedestrian and bicycle facility.

The Office of the Secretary of Transportation for the Commonwealth of Virginia (Secretary) states that the proposed action is necessary for the construction of the Virginia Capital Trail connecting Richmond to Williamsburg, VA. The Secretary also notes that it finds no apparent detriment to potential freight or passenger rail service due to the proposed action.

The Natural Resources Conservation Service, Chesapeake Service Center states that the proposed action would have no effect on prime farmland.

OEA conducted a search the U.S. Fish and Wildlife Service's (USFWS) website⁵ to search for any species of concern in Henrico County, VA. The USFWS website lists the following species as threatened, endangered or in recovery:

- Bald Eagle (*Haliaeetus leucocphalus*) – Recovery
- James spiny mussel (*Pleurobema collina*) – Endangered
- Sensitive joint-vetch (*Aeschynomene virginica*) – Threatened
- Swamp pink (*Helonias bullata*) – Threatened

Upon review of the list of species listed as endangered, threatened or in recovery, OEA does not believe that any salvage activities associated with the abandonment would result in any adverse impacts to these species. Nevertheless, OEA has provided a copy of this EA to the USFWS for review and comment.

OEA was not able to identify any National or State parks, wildlife sanctuaries, or refuges that would be affected by the proposed abandonment. The National Park Service has not responded to the railroad's environmental report. OEA has provided a copy of this EA to the National Park Service for review and comment.

⁵ U.S. Fish and Wildlife Website, Find Endangered Species: <http://www.fws.gov/endangered> (last visited April 2, 2013).

CSXT and NSR state that there are no known hazardous materials waste sites or sites where known hazardous material spills have occurred on or along the Line. However, CSXT notes that three groundwater monitoring wells are located along the James River. An active monitoring agreement with IMTT Richmond, which includes Right of Entry Agreement, would be conveyed and/or assigned to the City upon abandonment authority. The Virginia Department of Environmental Quality, Piedmont Regional Office (VA-DEQ) has not responded to the railroad's environmental report. OEA has provided a copy of this EA to the VA-DEQ for review and comment.

The U.S. Army Corps of Engineers, Norfolk District (Corps) states that the proposed actions would not require authorization from the Corps. However, the Corps further notes that it would require additional information regarding salvage activities and conversion of the Line to a trail before it could make a determination if wetlands located adjacent to the Line would be impacted. Accordingly, OEA will recommend a condition requiring the Petitioners to consult with the Corps prior to initiating any salvage activities related to the rail abandonment and discontinuance. (Because the Board's role in rails-to-trails is purely ministerial, the environmental review process under the National Environmental Policy Act does not apply to conversions of rail lines to trails.)

In an email dated December 18, 2012, the U.S. Department of Commerce, National Geodetic Survey (NGS) states that three geodetic survey markers may be located in the area of the proposed abandonment. Therefore, OEA will recommend that CSXT and NSR consult with the NGS prior to the commencement of any salvage activities to allow for relocation of any affected survey markers.

Based on all information available to date, OEA does not believe that the proposed abandonment would result in significant environmental impacts.

HISTORIC REVIEW

In its Historic Report, the Petitioners state that the Line contains no structures that are 50 years old or older and that it does not contain any federally granted rights-of-way. However, CSXT and NSR note that the Line may be suitable for other public purposes but may be subject to reversionary interests that may affect transfer of title for other than rail purposes.

As noted earlier, the Line is proposed for abandonment and discontinuance to allow the City and County to complete construction of the Virginia Capital Trail.

According to the Petitioners, the Line was completely reconstructed following the James River flood of October 31 through November 6, 1985. At the time of the reconstruction cuts and fill would have affected any archaeological resources.

The Line was constructed at the municipal wharf for the City of Richmond in 1938 with the purpose of shipping freight to and from the wharf. By an agreement dated March 1, 1923, the Chesapeake and Ohio Railway Company and the Southern Railway Company jointly operated over the James River Industrial Tracks and shared the maintenance costs. In 1982, Norfolk Western and Southern Railway merged to create Norfolk Southern Corporation. In

1990, the Southern Railway was renamed the Norfolk Southern Railway.

On November 1, 1980, Seaboard Coast Line Industries, Inc., and Chessie System, Inc., merged and became CSX Corporation. On April 30, 1987, the Baltimore & Ohio Railroad Company was merged into the Chesapeake and Ohio Railway Company. The Chesapeake and Ohio Railway Company was merged into CSX Transportation on September 2, 1987.

CSXT and NSR 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 Virginia Department of Historic Resources (SHPO) pursuant to 49 C.F.R. § 1105.8(c).⁶ In a letter dated March 4, 2013, the SHPO offers an opinion that it does not believe that the rail corridor is eligible for listing in the Virginia Landmarks Register or the National Register of Historic Places and concludes that no historic properties would be affected by the proposed abandonment.

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, we have 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>.

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.⁷ 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.

CONDITIONS

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

- 1. CSX Transportation, Inc., and Norfolk Southern Railway Company shall consult with the Army Corps of Engineers, Norfolk District regarding potential impacts of salvage activities to adjacent wetlands prior to initiating any salvage activities.**

⁶ 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>.

⁷ Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited April 3, 2013).

- 2. CSX Transportation, Inc., and Norfolk Southern Railway Company shall consult with the National Geodetic Survey at least 90 days prior to the beginning of salvage activities that will disturb or destroy any geodetic station markers.**

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

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 55 Sub No. 726X and AB 290 Sub**

No. 303X 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: April 22, 2013.

Comment due date (30 days): May 21, 2013.

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

Attachment