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OEA

SERVICE DATE – DECEMBER 20, 2013

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB-55 (Sub-No. 729X)

**CSX Transportation, Inc. – Abandonment Exemption –
in Hagerstown, Washington County, Md.**

BACKGROUND

In this proceeding, CSX Transportation, Inc. (CSXT) filed a notice 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 approximately 0.90 mile line of railroad located in Hagerstown, Washington County, Maryland. The rail line proposed for abandonment extends from milepost BBT 3.9 to milepost BBT 3.0 on the CSXT's Lugan Subdivision (the Line). Maps depicting the Line in relation to the area served are 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 concluding that the quality of the human environment would not be significantly affected 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 Board's environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

CSXT states that no local traffic has moved over the Line for at least seven years and that there is no overhead traffic. 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.

¹ 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-55 (Sub-No. 729X).

Salvage Activities

If abandonment authority is granted in this proceeding, CSXT states that it intends to salvage rail, crossties, and possibly the upper layer of ballast from the rail right-of-way. CSXT does not intend to alter the contour of the underlying roadbed or to disturb any sub grade structures. A total of seven public at-grade road crossings would be removed as a result of the proposed abandonment.

The City of Hagerstown (Hagerstown) submitted comments stating that Hagerstown is interested in developing the Line for use as a multipurpose trail as part of a larger trail network in the city. In its comments, Hagerstown also expresses support for the closure of at-grade road crossings along the Line.

The Washington County Department of Public Works submitted comments stating that the proposed abandonment would have no environmental impact and expressing support for the conversion of the Line into a multipurpose trail.

The Maryland Department of Natural Resources (MDNR) submitted comments stating that the proposed abandonment would not result in any adverse environmental impacts. MDNR also notes that the Line is not located with Maryland's Coastal Zone. Accordingly, no mitigation regarding the protection of coastal resources is recommended.

The U.S. Natural Resource Conservation Service (NRCS) submitted comments stating that the proposed abandonment would not result in any negative effects to prime farmland. Accordingly, no mitigation regarding the conservation of agricultural land is recommended.

CSXT states, and OEA review has confirmed, that the Line does not cross and is not immediately adjacent to any waterways. In its review of available data, OEA has concluded that the Line does not cross and is not immediately adjacent to any areas containing wetlands.²

CSXT requested comments from the U.S. Army Corps of Engineers (the Corps) regarding the need for a Corps permit under Section 404 of the Clean Water Act.³ In its response, the Corps notes that a permit would be required for the discharge of dredged or fill material into waters of the U.S., including wetlands. CSXT states it does not intend to discharge dredge or fill material into waterways or wetlands. Because the proposed abandonment would be limited to the removal of rail, crossties, and the upper layer of ballast, and because the Line does not cross and is not immediately adjacent to any waterways or wetlands, OEA believes that a Corps permit under Section 404 of the Clean Water Act would not be required.

² U.S. Fish and Wildlife Service (USFWS) National Wetlands Inventory Mapper, <http://www.fws.gov/wetlands/Wetlands-Mapper.html> (last visited December 16, 2013).

³ 33 U.S.C. § 1344.

CSXT requested comments from the U.S. Environmental Protection Agency (USEPA) and the Maryland Department of the Environment (MDE) regarding compliance with Section 402 of the Clean Water Act⁴ and other applicable local, state, and federal water quality regulations. To date, OEA has not received responses from these agencies. CSXT states that the proposed abandonment would not result in any impacts to water quality. Because salvage activities would be limited to the salvage of rail, crossties, and the upper layer of ballast, and because the Line does not cross and is not adjacent to any waterways, OEA concurs with CSXT's determination that a permit under Section 402 of the Clean Water Act would not be required. OEA is sending a copy of this EA to MDE for review and comment.

CSXT states that there are no known hazardous waste sites or sites where hazardous material spills have occurred on or adjacent to the right-of-way. OEA review has confirmed that there are no listed Superfund sites in the vicinity of the Line.⁵ Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

CSXT has requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding potential impacts of the proposed abandonment on federally listed threatened or endangered species, but has received no response to date. In its review of available geospatial data, OEA has concluded that the Line is not located in an area designated as critical habitat.⁶ OEA also conducted a search of the USFWS Environmental Conservation Online System in order to identify any federally listed endangered or threatened species that may be present in the vicinity of the Line.⁷ The search identified two federally listed endangered species known or believed to be present in Washington County, Maryland. These species are the Northeastern bulrush (*Scirpus ancistrochaetus*) and harperella (*Ptilimnium nodosum*). The search did not identify any federally listed threatened species known or believed to occur in Washington County, MD.

Northeastern bulrush and harperella are both flowering plants typically found in wetland and riverine environments. The major threat to these species is the destruction or degradation of their habitat. Because the proposed abandonment would not result in any impacts to waterways or wetlands, OEA believes that the proposed abandonment would not result adversely affect the Northeast bulrush, harperella, or any other federally listed threatened or endangered species. Accordingly, no mitigation regarding the protection of threatened or endangered species is

⁴ 33 U.S.C. § 1342.

⁵ Environmental Protection Agency, NEPAassist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last visited December 16, 2013).

⁶ U.S. Fish and Wildlife Service, Critical Habitat Portal, <http://criticalhabitat.fws.gov/crithab> (last visited December 16, 2013).

⁷ U.S. Fish and Wildlife Service, Environmental Conservation Online System, <http://ecos.fws.gov/ecos/home.action> (last visited December 16, 2013).

recommended. OEA is sending a copy of this EA to USFWS for that agency's review and comment.

CSXT requested comments from the National Park Service (NPS) regarding the potential impact of the proposed abandonment on wildlife sanctuaries or refuges, parks, or other protected areas. In its response, NPS states that the proposed abandonment would have no environmental impact. In its review of available geospatial data, OEA has concluded that the Line is not located in or adjacent to any local or national park; wildlife sanctuary or refuge; or other protected area. Accordingly, no mitigation regarding protected areas is recommended.

The National Geodetic Survey (NGS) submitted comments stating that no geodetic station markers are located within the project area. Accordingly, no mitigation regarding the potential disturbance of geodetic station markers is recommended.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is providing a copy of this EA to the following agencies for their review and comment: MDE and USFWS

HISTORIC REVIEW

According to CSXT, the Line was originally part of the Baltimore & Ohio Railroad and was known as the Antietam Industrial Track. In 1987, the Baltimore & Ohio Railroad merged into the Chesapeake and Ohio Railway Company, which later merged into CSXT. CSXT states that it does not own any structures along the segment that may be eligible for listing in the National Register of Historic Place (National Register).

The Maryland Historical Trust (State Historic Preservation Officer or SHPO) submitted comments stating that no historic properties would be affected by the proposed abandonment. OEA has reviewed the available information and concurs with the SHPO's comments.

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 no known historic properties listed in or eligible for inclusion in the National Register would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment. 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 www.stb.dot.gov.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally recognized tribes that may have

ancestral connections to the project area.⁸ The search did not identify any federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment. Accordingly, OEA is not recommending consultation with federally recognized tribes.

CONDITIONS

We recommend that no environmental conditions be imposed on any decision granting abandonment authority in this proceeding.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that 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 would 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.

TRAILS USE

Requests for a notice of interim trail use (NITU) are 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

⁸ National Park Service, National NAGPRA Program Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited December 16, 2013).

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 Joshua Wayland, 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 Number AB-55 (Sub-No. 729X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at waylandj@stb.dot.gov.

Date made available to the public: December 20, 2013

Comment due date: January 6, 2014

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