

LAW OFFICES OF  
**LOUIS E. GITOMER, LLC**

LOUIS E. GITOMER  
Lou@lgrailaw.com

MELANIE B. YASBIN  
Melanie@lgrailaw.com  
410-296-2205

600 BALTIMORE AVENUE, SUITE 301  
TOWSON, MARYLAND 21204-4022  
(410) 296-2250 • (202) 466-6532  
FAX (410) 332-0885

November 30, 2015

239638

Cynthia T. Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

ENTERED  
Office of Proceedings  
November 30, 2015  
Part of  
Public Record

Re: **Docket No. AB-55 (Sub-No. 751X), CSX Transportation, Inc.—  
*Discontinuance of Service Exemption—in Bell and Harlan Counties, KY***

Dear Ms. Brown,

Enclosed are the original and 10 copies of a Verified Notice of Exemption for CSX Transportation, Inc. ("CSXT") to discontinue service over an approximately 7-mile rail line on its Southern Region, Huntington Division, CV Subdivision, Engineering Appalachian Division, also known as the Pucketts Creek Branch between Milepost OPC 223.0 and Milepost OPC 230.0 in Bell and Harlan Counties, KY. The filing fee of \$3,900, has been paid by credit card. Also enclosed is a CD containing the Notice in WORD and pdf format.

Please time and date stamp the additional copy of this letter and Notice and return it with the messenger.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely yours,



Melanie B. Yasbin  
Attorney for CSX Transportation, Inc.

Enclosure

FILED  
November 30, 2015  
SURFACE  
TRANSPORTATION BOARD

FEE RECEIVED  
November 30, 2015  
SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

Docket No. AB-55 (Sub-No. 751X)

---

CSX TRANSPORTATION, INC.–DISCONTINUANCE OF SERVICE EXEMPTION–  
IN BELL AND HARLAN COUNTIES, KY

---

VERIFIED NOTICE OF EXEMPTION

---

Steven C. Armbrust, Esq.  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202  
(904) 359-1229

Louis E. Gitomer, Esq.  
Melanie B. Yasbin, Esq.  
Law Offices of Louis E. Gitomer, LLC  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(410) 296-2250  
Lou@lgraillaw.com

Attorneys for: CSX TRANSPORTATION,  
INC.

Dated: November 30, 2015

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

Docket No. AB-55 (Sub-No. 751X)

---

CSX TRANSPORTATION, INC.– DISCONTINUANCE OF SERVICE EXEMPTION–  
IN BELL AND HARLAN COUNTIES, KY

---

VERIFIED NOTICE OF EXEMPTION

---

CSX Transportation, Inc. (“CSXT”) files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 for CSXT to discontinue service over an approximately 7-mile rail line on its Southern Region, Huntington Division, CV Subdivision, Engineering Appalachian Division, also known as the Pucketts Creek Branch between Milepost OPC 223.0 and Milepost OPC 230.0 in Bell and Harlan Counties, KY (the “Line”). No local rail traffic has moved over the Line during the past two years. Any overhead traffic on the Line can be and has been rerouted.

Based on information in the possession of CSXT, the Line does not contain federally granted rights-of-way. Any documentation in the railroad’s possession will be made available promptly to those requesting it.

1. Proposed consummation date. The proposed consummation date is January 19, 2016.
2. Certification required by 49 C.F.R. § 1152.50(b). *See* Exhibit A.
3. Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7), and (8), and (e)(4).

(a) General.

(1) Exact name of applicant. CSX Transportation, Inc.

(2) Whether applicant is a common carrier by railroad subject to 49 U.S.C.

Subtitle IV, Chapter 105. CSXT is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(3) Relief sought. CSXT seeks to use the class exemption at 49 C.F.R. § 1152.50 to discontinue service over an 7-mile rail line on its Southern Region, Huntington Division, CV Subdivision, Engineering Appalachian Division, also known as the Pucketts Creek Branch between Milepost OPC 223.0 and Milepost OPC 230.0 There are two station on the Line, Alva (FSAC 43932/OPSL19940) at milepost OPC 223.0 and Piedmont (FSAC 43931/OPSL 19930) at milepost OPC 230.0.

(4) Map. *See* Exhibit B.

(7) Name, title, and address of representative of applicant to whom correspondence should be sent. Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (410) 296-2250, Lou@lgraillaw.com.

(8) List of all United States Postal Service ZIP Codes that the line proposed for discontinuance traverses. The Line traverses U.S. Postal ZIP Codes 40845, 40856, and 40863.

(e) Rural and community impact.

(4) Statement of whether the properties proposed to be discontinued are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which

would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.

CSXT is discontinuing service over the Line because no traffic has moved over the Line in more than two years. Once discontinuance of service is authorized, CSXT will close the road crossings and idle the crossing warning devices at 10 crossings. Since service on the Line is being discontinued and not abandoned and CSXT is retaining the Line for future reactivation if demand for rail service resumes, the Line is not available for public use purposes. *See, Central Illinois Railroad Company—Discontinuance of Service Exemption—in Cook County, Ill.*, Docket No. AB 1066 (Sub-No. 2X) slip op. at 3 (STB served November 16, 2010).

4. The level of labor protection. The interests of any railroad employees who may be adversely affected by the proposed discontinuance of service will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co. –Abandonment–Goshen*, 360 I.C.C. 91 (1979).

5. Certification. Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) and 1105.11 are attached as Exhibit C.

6. Environmental Report. CSXT is not salvaging the track and materials on the Line. Because the Line has not been used in several years, there will be no diversion of traffic from rail to truck. Therefore, CSXT does not have to prepare or file an Environmental Report. 49 C.F.R. §1105.6(c)(2).

7. Historic Report. CSXT is discontinuing service over the Line. It is not salvaging the track and materials on the Line. There will be no impact on historic properties. Therefore, CSXT does not have to prepare or file an Historic Report. 49 C.F.R. §1105.8(a).

Respectfully submitted,



Steven C. Armbrust, Esq.  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202  
(904) 359-1229

Louis E. Gitomer, Esq.  
Melanie B. Yasbin, Esq.  
Law Offices of Louis E. Gitomer  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(410) 296-2250  
Lou@lgraillaw.com

Attorneys for: CSX TRANSPORTATION,  
INC.

Dated: November 30, 2015

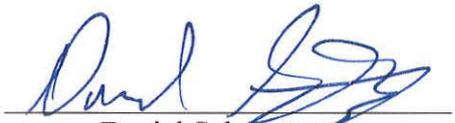
## **EXHIBIT A-VERIFICATION AND CERTIFICATION**

**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS  
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

STATE OF FLORIDA                    )  
  )  
COUNTY OF DUVAL                 )        ss.

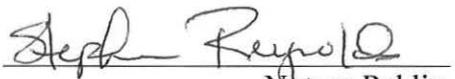
I, Daniel Schwartz, state that I am Analyst of Cost & Economic Analysis for CSX Transportation, Inc. (“CSXT”); that I am authorized to make this verification; and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated, to the best of my knowledge, information, and belief.

I hereby certify that no local freight traffic has moved over CSXT’s seven (7) mile rail line on its Southern Region, Huntington Division, CV Subdivision, Engineering Appalachian Division from Railroad Milepost 0PC 223.0 to 0PC 230.0 also known as Pucketts Creek Branch located in Bell and Harlan County, Kentucky for two years prior to the date hereof. Since this is not a through line, no overhead traffic has operated; therefore, none needs to be rerouted over other lines. Further, no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period. The foregoing certification is made on behalf of CSXT by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned.

  
Daniel Schwartz

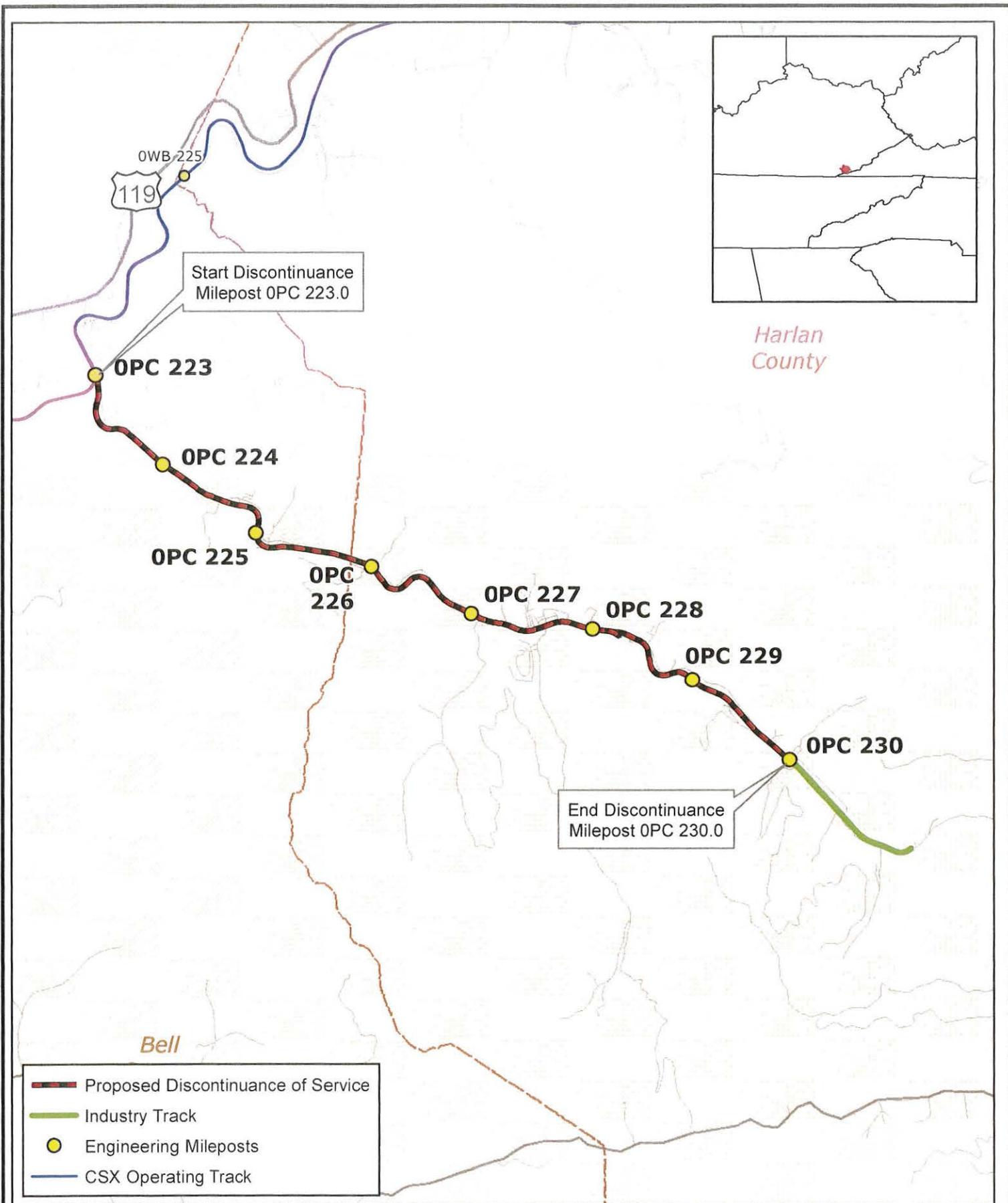
SUBSCRIBED AND SWORN TO before me this 19<sup>th</sup> day of November 2015.

My Commission Expires: 9-11-2016

  
Notary Public



## **EXHIBIT B-MAP**

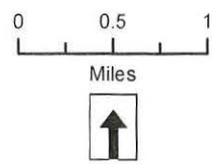


-  Proposed Discontinuance of Service
-  Industry Track
-  Engineering Mileposts
-  CSX Operating Track



**CSX Transportation, Inc.**  
**Proposed Discontinuance of Service**  
**Bell and Harlan Counties, KY**  
**Puckett's Creek Branch**

Milepost OPC 223.0 to OPC 230.0  
 Total Distance of approx. 7.0 Miles  
 Huntington Division - CV Subdivision  
 STB Docket No. AB 55 (Sub-No. 751X)



## **EXHIBIT C-CERTIFICATES OF SERVICE AND PUBLICATION**

Pursuant to 49 C.F.R. § 1152.50 (d) (1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-55 (Sub-No. 751X) was mailed via first class mail on November 20, 2015, to the following parties:

### State Public Service Commission

Kentucky Public Service Commission  
P.O. Box 615  
211 Sower Boulevard  
Frankfort, KY 40602-0615

### Military Traffic Management Command

Headquarters  
Military Surface Deployment and Distribution Command  
Transportation Engineering Agency  
ATTN: SDTE-SA (Railroads for National Defense)  
1 Soldier Way, Building 1900W  
Scott AFB, IL 62225

### National Park Service

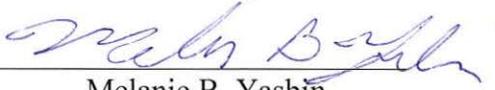
Mr. Rick Potts  
Chief, Conservation and Outdoor Recreation Division  
Rivers, Trails and Conservation Assistance Program National Park Service  
1849 C Street, N.W. (Org Code 2220)  
Washington, DC 20240

### National Park Service

U.S. Department of Interior  
National Park Service  
Land Resources Division  
1849 C Street, N.W.  
Washington, DC 20240

U.S. Department of Agriculture

U.S. Department of Agriculture  
Chief of the Forest Service  
1400 Independence Avenue, S.W.  
Washington, DC 20250-0003



---

Melanie B. Yasbin  
November 30, 2015

**EXHIBIT D- ENVIRONMENTAL REPORT  
NONE REQUIRED**

**EXHIBIT E- HISTORIC REPORT  
NONE REQUIRED**

## CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-55 (Sub-No. 751X) in the following form was advertised on November 24, 2015 in The Harlan Daily Enterprise, a newspaper of general circulation in Harlan County, KY, and in the Middlesboro Daily News, a newspaper of general circulation in Bell County, KY, as required by 49 C.F.R. § 1105.7(c) and .12.



Melanie B. Yasbin  
November 30, 2015

### Notice of Intent To Discontinue Service

CSX Transportation, Inc. (“CSXT”) gives notice that on or about December 1, 2015, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting the discontinuance of service over an approximately 7-mile rail line on its Southern Region, Huntington Division, CV Subdivision, Engineering Appalachian Division, also known as the Pucketts Creek Branch between Milepost OPC 223.0 and Milepost OPC 230.0, which traverses through United States Postal Service ZIP Code 40845 and 40863, in Bell and Harlan Counties, KY. The proceeding will be docketed as No. AB-55 (Sub-No. 751X).

The Board’s Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the OEA, Surface Transportation Board, Washington, DC 20423 or by calling that office at (202) 245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as offers of financial assistance) must be filed directly with the Board’s Section of Administration, Office of Proceedings, 395 E Street, SW, Washington, DC 20423–0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant’s representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance may be directed to the Board’s Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Copies of any comments or requests for conditions should be served on the applicant’s representative: Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (410)296-2250, Lou@lgrailaw.com.