

D.D # 0102159001 207460



Law Department
500 Water Street
Speed Code J-150
Jacksonville, FL 32202
Fax (904) 359-1248
Telephone (904) 359-3100

NATALIE S. ROSENBERG
Counsel

Writer's direct telephone line:
(904) 359-1253

March 21, 2003

Via Airborne Express
Mr. Vernon A. Williams, Secretary
Surface Transportation Board
Mercury Building
1925 K Street, N.W.
Washington, D.C. 20423



**RE: Docket No. AB-55 (Sub-No. 631X)
CSX Transportation, Inc. – Abandonment
in Summit County, Ohio**

Dear Mr. Williams:

Enclosed for filing are the original and ten copies of CSX Transportation, Inc.'s Notice of Exemption in the above-captioned proceeding. A check in the amount of \$2,700.00 to cover the filing fee is also enclosed. I would appreciate your acknowledgment of receipt of these documents by stamping the extra enclosed copy of this letter and returning it to me in the enclosed self-addressed.

Very truly yours,

Natalie S. Rosenberg
Natalie S. Rosenberg

Enclosures

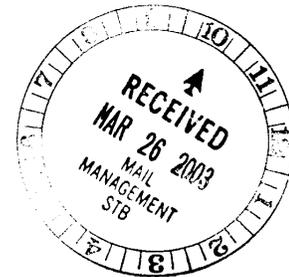
FEE RECEIVED
MAR 26 2003
SURFACE
TRANSPORTATION BOARD

ENTERED
Office of Proceedings
MAR 26 2003
Part of
Public Record

FILED
MAR 26 2003
SURFACE
TRANSPORTATION BOARD

D: D # 0102159001

207460



BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-55 (Sub-No. 631X)

CSX TRANSPORTATION, INC.
ABANDONMENT IN
SUMMIT COUNTY, OHIO

N O T I C E O F E X E M P T I O N

Natalie S. Rosenberg
Counsel
500 Water Street J150
Jacksonville, FL 32202
(904) 359-1253

Counsel for
CSX TRANSPORTATION, INC.

DATED: March 21, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD



DOCKET NO. AB-55 (SUB-NO. 631X)

CSX TRANSPORTATION, INC.
ABANDONMENT IN
SUMMIT COUNTY, OHIO

NOTICE OF EXEMPTION

CSX Transportation, Inc. ("CSXT") files this Notice of Exemption pursuant to the Board's regulations at 49 C.F.R. §1152.50. This Notice of Exemption is for abandonment of CSXT's line of railroad from former Conrail Milepost 11.49 to a point 150 feet from the point of switch at or near former Conrail Milepost 11.56, known as the Lumber Lead, (hereinafter "the line"), a distance of approximately 0.07 of a mile, which traverses through United States Postal Service ZIP Code 44305 in Summit County, Ohio. In accordance with the aforesaid regulations, CSXT makes the following responses:

RESPONSE TO 49 C.F.R. SECTION 1152.50(d)(2):

1. Proposed Consummation Date.

The proposed consummation date of this abandonment

is May 21, 2003.

2. Certification Required in Section 1152.50(b).

The required certification is set forth as Exhibit B to this Notice of Exemption.

3. Information required in Section 1152.22(a)(1-4), (7), (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 the Interstate Commerce Act.

CSXT is a common carrier by railroad subject to the Interstate Commerce Act.

(3) Relief sought (abandonment of line or discontinuance of operations).

CSXT seeks authority to abandon the line.

(4) Detailed map of the line.

Maps are attached hereto as Exhibit A.

(7) Name, title and address of representative of applicant to whom correspondence should be sent.

Natalie S. Rosenberg
Counsel
CSX Transportation, Inc.
500 Water Street J150
Jacksonville, FL 32202

(8) United States Postal Service Zip Code that the line traverses.

44305

(e) Rural and community impact.

- (4) Statement of whether the properties proposed to be abandoned are suitable for use for other public purposes, including roads or 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.

The properties proposed for abandonment may be suitable for other public purposes, but may be subject to reversionary interests that would affect transfer of title for other than rail purposes.

4. The Level of Labor Protection.

CSXT understands that, in exempting the proposed abandonment, the Board does not relieve a carrier of its statutory obligation to protect the interests of employees. See 49 C.F.R. Section 1152.50(c). Accordingly, CSXT anticipates that the Board will impose the conditions set forth in Oregon Short Line R. Co. - Abandonment - Goshen, 360 I.C.C. 91 (1979), for the benefit of any carrier employee who may be adversely affected by the proposed abandonment.

5. Certificate of Compliance With the Notice Requirements of Section 1152.50(d)(1).

The required certificate is set forth as Exhibit C to this Notice of Exemption.

6. Environmental Report and Historic Report.

The Environmental Report required by 49 C.F.R. 1105.7 and the Historic Report required by 49 C.F.R. 1105.8 are attached as Exhibits D and E, respectively, to this Notice of Exemption. Attached as Exhibit F is a certificate showing CSXT's compliance with 49 C.F.R. 1105.11.

7. Newspaper Notice.

The Newspaper Notice required by 49 C.F.R. 1105.12 was published in The Akron Beacon Journal, Akron, Summit County, Ohio, on March 14, 2003. An affidavit of publication from this newspaper will be forwarded to the Board as soon as it is received by CSXT.

8. Verification.

The required verification is set forth as Exhibit G to this Notice of Exemption.

Respectfully submitted,


Natalie S. Rosenberg
Counsel
CSX Transportation, Inc.
500 Water Street J150
Jacksonville, FL 32202

DATED: March 21, 2003

Akron, OH



Proposed Abandonment -
370 Feet (0.07 mi. +/-) of Track
Summit County
Akron Jct., OH

WESTERN REGION - GREAT LAKES DIVISION - NEW CASTLE SUBDIVISION

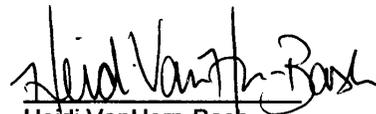
CERTIFICATION REQUIRED

IN 49 C. F. R. SECTION 1152.50(b)

In accordance with 49 C. F. R. Section 1152.50(b), I hereby certify that, with respect to the line subject of the Notice of Exemption in Docket No. AB-55 (Sub-No. 631X):

- (1) no local traffic has moved over the line for at least two years prior to the date hereof
- (2) there is no overhead traffic on the line
- (3) no formal complaint filed by a user of rail service on the line (or state or local government agency acting on behalf of such user) regarding cessation of service over the line is either pending with the Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period prior to the date hereof

The foregoing certification is made on behalf of CSX Transportation, Inc. by the undersigned after due and careful investigation of the matters herein certified and based on the best knowledge, information, and belief of the undersigned.


Heidi VanHorn-Bash

Dated: 3/10/03

EXHIBIT C

CERTIFICATE OF COMPLIANCE
WITH NOTICE REQUIREMENTS OF
49 C.F.R. 1152.50(d) (1)

In accordance with 49 C.F.R. §1152.50(d) (2), I hereby certify that:

On March 7, 2003, I caused to be served by U.S. first-class mail, postage prepaid, the notice required by 49 C.F.R. §1152.50(d) (1), upon the Public Utilities Commission of Ohio, the Ohio Rail Development Commission, the Military Traffic Management Command of the U.S. Department of Defense, the National Park Service, Land Resources and Recreation Resources Divisions, and the U. S. Department of Agriculture.


Natalie S. Rosenberg

Dated: March 21, 2003

ENVIRONMENTAL REPORT

CSX TRANSPORTATION, INC.

AKRON JUNCTION
AKRON, SUMMIT COUNTY, OHIO

DOCKET AB-55 (SUB-NO. 631X)

The following information is provided in accordance with 49 C.F.R. Section 1105.7:

(1) PROPOSED ACTION AND ALTERNATIVES

Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

CSX Transportation, Inc. ("CSXT") proposes to abandon 0.07 of a mile of its rail line at Akron Junction, in Akron, Summit County, Ohio. The only patron, Terminal Warehouse, has not generated any originating or terminating traffic during the past two years with no known future prospects.

Abandonment of this line will result in the removal of the rail, crossties, and possibly the upper layer of ballast; subsequently, the operations and maintenance of this line will cease.

The only alternative would be not to abandon and to pass the opportunity costs of retaining the line to all other CSXT customers. This would not be a prudent utilization of carrier resources.

Two maps which delineate the proposed project are attached. (See Attachments 1 and 2.)

(2) TRANSPORTATION SYSTEM

Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

There is no CSXT passenger or freight traffic on this line. There will be no effect on existing regional or local transportation systems or patterns.

(3) LAND USE

- (i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.**

Applicant has not received comments to its letters of February 3, 2003, to the City of Akron Planning Department, Summit County Planning Commission and the Northeast Ohio Four County Regional Planning and Development Organization. (See Attachments 3-5.)

Based on the fact that the line has not generated any traffic during the past two years, Applicant believes the proposed action is not inconsistent with local land use plans

- (ii) Based on consultation with the U. S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.**

On February 14, 2003, the USDA – Natural Resources Conservation Service, advised there was no prime farmland found adjacent to the site of the proposed abandonment. (See Attachment 6.)

- (iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by 1105.9.**

On February 12, 2003, Applicant received electronic mail from the Ohio Department of Natural Resources Office of Coastal Management advising that the project area is not located within the Ohio Coastal Management Area. (See Attachment 7.)

- (iv) If the proposed action is an abandonment, state whether or not the right of way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.**

The properties proposed to be abandoned 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.

(4) ENERGY

- (i) **Describe the effect of the proposed action on transportation of energy resources.**

The proposed action will have no effect on the transportation of energy resources.

- (ii) **Describe the effect of the proposed action on recyclable commodities.**

The proposed action will have no effect on the movement and/or recovery of recyclable commodities.

- (iii) **State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.**

The proposed action will not result in an increase or decrease in overall energy efficiency.

- (iv) **If the proposed action will cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.**

There will be no diversion of rail traffic to motor carriage.

(5) AIR

- (i) **If the proposed action will result in either: (A) an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or (B) an increase in rail yard activity of at least 100% (measured by carload activity), or (C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.**

The above thresholds will not be exceeded.

- (ii) **If the proposed action affects a class I or non-attainment area under the Clean Air Act; and will it result in either: (A) an increase in rail traffic of a least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, or (B) an increase in rail yard activity of a least 20% (measured by carload activity), or (C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan.**

The above thresholds will not be exceeded.

- (iii) **If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity, the frequency of service; safety practices (including any speed restriction); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.**

Not applicable.

(6) NOISE

If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause: (i) an incremental increase in noise levels of three decibels Ldn or more, or (ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

The above thresholds will not be exceeded.

(7) SAFETY

- (i) **Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).**

There will be no effect on public health and safety as a result of the proposed action.

- (ii) **If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed**

restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

Not applicable.

- (iii) **If there are any known hazardous waste sites or sites where there have been known hazardous material spills on the right of way, identify the location of those sites and the types of hazardous materials involved.**

Applicant's records do not indicate any hazardous waste sites or sites where there have been hazardous material spills on this line segment.

(8) BIOLOGICAL RESOURCES

- (i) **Based on consultation with the U. S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.**

On February 24, 2002, the U. S. Department of the Interior, Fish and Wildlife Service, advised "*We concur that this proposed projects (sic) is not likely to adversely impact federally-listed species or critical habitats.*" (See Attachment 8.)

- (ii) **State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.**

On February 24, 2002, the U. S. Department of the Interior, Fish and Wildlife Service, advised "*The proposed project does not occur in the vicinity of federal wild and scenic rivers, wildlife refuges, wildlife areas, or designated critical habitats.*" (See Attachment 8.)

Based upon Applicant's review, the line is not within any National or State parks or forests.

(9) WATER

- (i) **Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.**

On February 12, 2003, Applicant received electronic mail from the State of Ohio Environmental Protection Agency advising that no permits under Section 402 of the Clean Water Act are required and no Ohio EPA permits are required. (See Attachment 9.)

- (ii) **Based on consultation with the U. S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.**

On February 20, 2003, the U. S. Army Corps of Engineers advised that a Department of the Army permit is not required. (See Attachment 10.)

Applicant is not aware of any designated wetlands or 100-year flood plains within the proposed project area.

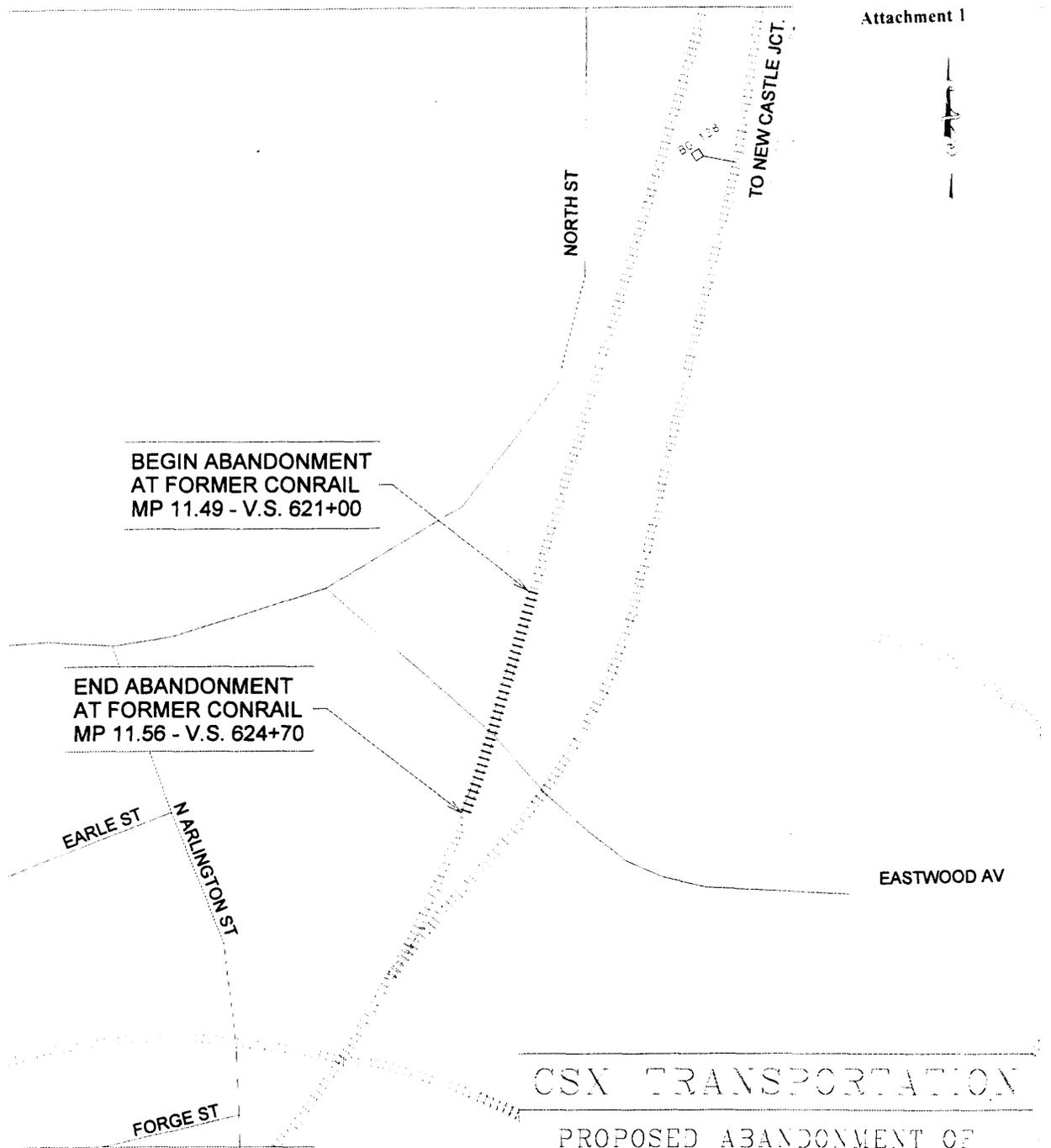
- (iii) **State whether permits under Section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U. S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required).**

On February 12, 2003, the State of Ohio EPA advised no permits under Section 402 would be required. (See Attachment 9.)

10. MITIGATION

Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

There will be no adverse environmental impacts in the project area as a result of this abandonment; therefore, mitigating action will not be necessary.



CSX TRANSPORTATION

PROPOSED ABANDONMENT OF 370 FEET (0.07 mi.) OF TRACK

City: Akron Jct.	VAL: V115.1 /sht 1
County: Summit	GIS: 09070
State: OH	Scale: 1" = 200'
Fips: 39153	Date: 2/13/03
Site ID: OH-153-0997518	Drawn By: LF

PROPOSED ABANDONMENT
 370 FEET (0.07 mi.) OF TRACK
 WESTERN REGION
 GREAT LAKES DIVISION
 NEW CASTLE SUBDIVISION
 1132 SW. OF BOSTON

S:\P\10439\OH1531-153-0063\OH-153-0997518\AKRON_JCT.DGN



Akron, OH



Proposed Abandonment -
370 Feet (0.07 mi. +/-) of Track
Summit County
Akron Jct., OH

WESTERN REGION - GREAT LAKES DIVISION - NEW CASTLE SUBDIVISION



Heidi VanHorn-Bash
Director - Asset Management

500 Water Street - J200
Jacksonville, FL 32202
Phone: (904) 359-2409
FAX: (904) 359-1111
E-Mail: Heidi_VanHorn-Bash@csx.com

February 3, 2003

City of Akron
Planning Department
528 E. South Street
Akron, Ohio 44311-1843

Gentlemen:

Please be advised that CSX Transportation, Inc. ("CSXT") is considering abandonment of a portion of its rail line in Akron, Summit County, Ohio, as depicted on the attached map.

This action requires Surface Transportation Board approval and Federal Regulations 49 C.F.R. 1105.7(3)(i) require that we develop a response to the following statement:

"Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies."

I would appreciate your advice as to the existence of a long-range comprehensive planning map for the City of Akron and the line's relationship to such planning.

Sincerely,

A handwritten signature in black ink that reads "Heidi Bash". The signature is written in a cursive style and is positioned below the word "Sincerely,".

Attachments

Attachment 4



Jacksonville, FL 32202
Phone: (904) 359-2409
FAX: (904) 359-1111
E-Mail: Heidi_VanHorn-Bash@csx.com

Heidi VanHorn-Bash
Director - Asset Management

February 3, 2003

Mr. Jim Oberdorfer
Deputy Director Planning
Summit County Planning Commission
175 S. Main Street
Akron, OH 44308

Dear Mr. Oberdorfer:

Please be advised that CSX Transportation, Inc. ("CSXT") is considering abandonment of a portion of its rail line in Akron, Summit County, Ohio, as depicted on the attached map.

This action requires Surface Transportation Board approval and Federal Regulations 49 C.F.R. 1105.7(3)(i) require that we develop a response to the following statement:

"Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies."

I would appreciate your advice as to the existence of a long-range comprehensive planning map for Summit County and the line's relationship to such planning.

Sincerely,

A handwritten signature in black ink that reads "Heidi VanHorn-Bash". The signature is written in a cursive style with a large, stylized "H" and "B".

Attachment



Heidi VanHorn-Bash
Director - Asset Management

500 Water Street - J200
Jacksonville, FL 32202
Phone: (904) 359-2409
FAX: (904) 359-1111
E-Mail: Heidi_VanHorn-Bash@csx.com

February 3, 2003

Northeast Ohio Four County
Regional Planning and Development Organization
180 East South Street
Akron, Ohio 44311-2035

Gentlemen:

Please be advised that CSX Transportation, Inc. ("CSXT") is considering abandonment of a portion of its rail line in Akron, Summit County, Ohio, as depicted on the attached map.

This action requires Surface Transportation Board approval and Federal Regulations 49 C.F.R. 1105.7(c) require that advance notice be given to afford your agency a reasonable opportunity to provide meaningful input.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Heidi VanHorn-Bash". The signature is written in a cursive, flowing style.

Attachments

2795 Front St. Suite D
Cuyahoga Falls, Oh 44221

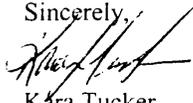
February 14, 2003

Heidi VanHorn-Bash
500 Water St. -J200
Jacksonville, Fl 32202

Dear Heidi VanHorn-Bash:

The lands surrounding the proposed site of CSXT abandonment will not affect any prime farmland, for there was no prime farmland found adjacent to that site.

Sincerely,



Kara Tucker
Soil Conservationist
USDA-NRCS

Van Horn-Bash, Heidi

From: Holland, Steven [Steven.Holland@dnr.state.oh.us]
Sent: Wednesday, February 12, 2003 4:00 PM
To: Van Horn-Bash, Heidi
Subject: Abandonment of Rail Line

Dear Heidi,

Thank you for your inquiry and assistance regarding the abandonment of a rail line project located in Summit County, Ohio.

The Ohio Department of Natural Resources Office of Coastal Management has reviewed the information that you have provided to this office. The project site, as noted on the map attached with the document that you sent us, is not located within the Ohio Coastal Management Area.

Please note that if, in the present or future, this project requires approval from any state or federal agency related to the authorities noted in the Ohio Coastal Management Program policies, the issue of the need for a consistency determination should be revisited.

Thank you.

Steve Holland, MPA
Consistency Coordinator
Ohio Department of Natural Resources
1630 Sycamore Line
Sandusky, Ohio 44870
(419) 626-7980 Ext. 226 -- Fax: (419) 626-7983
steven.holland@dnr.state.oh.us



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
6950 Americana Parkway, Suite H
Reynoldsburg, Ohio 43068-4127

(614) 469-6923/FAX (614) 469-6919
February 24, 2003

Heidi Bash
CSX Transportation, Inc.
500 Water Street - J200
Jacksonville, FL 32202

Dear Ms. Bash:

This is in response to your February 3, 2003 letter requesting information we may have regarding the occurrence or possible occurrence of Federally-listed threatened or endangered species, critical habitats, wildlife refuges, or other comments relating to the fish and wildlife resources within the vicinity of a proposed CSX Transportation, Inc. rail line abandonment project in Akron, Summit County, Ohio.

In general, we recommend that any potential projects minimize water quality impacts and impacts to high quality fish and wildlife habitat, such as forests, streams, and wetlands. Best construction techniques should be used to minimize erosion, in particular, on slopes. We support and recommend activities that reduce the likelihood of invasive plant spread and encourage native plant colonization. Prevention of non-native, invasive plant establishment is critical in maintaining high quality habitats. All disturbed areas should be mulched and revegetated with native plant species.

The proposed project does not occur in the vicinity of federal wild and scenic rivers, wildlife refuges, wildlife areas, or designated critical habitats. Please contact the Ohio Department of Natural Resources for information pertaining to state designated areas.

We concur that this proposed projects is not likely to adversely impact federally-listed species or critical habitats. For your information we are providing the following standard guidance for all Federally-listed species in Summit County.

THREATENED & ENDANGERED SPECIES COMMENTS:

The proposed project lies within the range of the **Indiana bat** (*Myotis sodalis*), a Federally listed endangered species. Summer habitat requirements for the species are not well defined, but the following comments are thought to be important:

1. Dead or live trees and snags with peeling or exfoliating bark, split tree trunk and/or branches, or cavities, which may be used as maternity roost areas.
2. Live trees (such as shagbark hickory) which have exfoliating bark.

3. Stream corridors, riparian areas, and upland woodlots which provide forage sites.

Should the proposed site contain trees with any of the characteristics listed above, we recommend that they and surrounding trees be saved wherever possible. If they must be cut, they should not be cut between April 15 and September 15.

If desirable trees are present and if the above time restriction is unacceptable, mist net or other surveys should be conducted to determine if bats are present. The survey should be designed and conducted in coordination with the Endangered Species Coordinator for this office. The survey should be conducted in June or July, since the bats would only be expected in the project area from approximately April 15 to September 15.

The proposed project lies within the range of the **bald eagle** (*Haliaeetus leucocephalus*), a Federally-listed threatened species. We recommend that you contact the Ohio Division of Wildlife for the location(s) of the eagle nest(s) in the county. If any nests are located within ½ mile of the project site, further coordination with this office is necessary. If the nest is active, we recommend that work at the site be restricted from mid-January through July to allow pre-nesting activities, incubation, and raising of the young.

CANDIDATE SPECIES COMMENTS:

The proposed project lies within the range of the **eastern massasauga** (*Sistrurus catenatus catenatus*), a docile rattlesnake that is declining throughout its national range and is currently a Federal Candidate species. The snake is currently listed as endangered by the State of Ohio. Your proactive efforts to conserve this species now may help avoid the need to list the species under the Endangered Species Act in the future. Due to their reclusive nature, we encourage early project coordination to avoid potential impacts to massasaugas and their habitat.

The massasauga is often found in or near wet areas, including wetlands, wet prairie, or nearby woodland or shrub edge habitat. This often includes dry goldenrod meadows with a mosaic of early successional woody species such as dogwood or multiflora rose. Wet habitat and nearby dry edges are utilized by the snakes, especially during the spring and fall. Dry upland areas up to 1.5 miles away are utilized during the summer, if available. Some project management ideas include the following:

1) At a minimum, project evaluations should contain delineations of whether or not massasauga habitat occurs within project boundaries. Descriptions should indicate the quality and quantity of massasauga habitat (holes, crayfish burrows, foraging area, or basking sites) that may be affected by the project.

2) In cases where massasaugas are known to occur or potential habitat is rated moderate to high, massasauga surveys may be necessary. If surveys are conducted, it may be helpful to inquire with local resource agency personnel, or reliable local residents, who may know of massasauga sightings. In addition, local herpetologists may have knowledge of historical populations, their habits, and especially the specific local habitats that may contain massasaugas. Surveys should be performed during the periods of spring emergence from dens (usually a narrow window in April or May) and should continue throughout the active season until October. This species is often easiest to locate during the summer months when pregnant females seek open areas in the early mornings, especially after cool evenings. Massasauga biologists recommend that 40 person-hours be spent at each survey locality to confirm the absence or presence of this reclusive species. Recommended survey protocol has been published and should be consulted for further details, as should local experts and literature from previous research and surveys.

Szymanski, J. A. 1998. Range-wide status assessment for the eastern massasauga (*Sistrurus c. catenatus*). U.S. Fish and Wildlife Service, Fort Snelling, MN, 31 pp. + appendix.

Casper et. al. Recommended standard survey protocol for the eastern massasauga, *Sistrurus catenatus catenatus*. Submitted to Herpetological Review, February 2000.

3) In portions of projects where massasaugas will be affected, clearing and construction activities should occur during the summer when air and ground temperatures are above 65° F. These warm season temperatures allow the snakes to be warm enough to move out of harm's way, if encountered during construction.

4) Maintenance activities (mowing, cutting, burning, etc.) should be conducted during the winter (November 1 to March 15) when snakes are hibernating or during the specified seasonal temperature periods described in the following publication:

Johnson et al. 2000. The Eastern Massasauga Rattlesnake: A Handbook for Land Managers. U.S. Fish and Wildlife Service, Fort Snelling, MN 55111-4056, 52 pp. + appendix.

Should additional information on listed or proposed species or their critical habitat become available or if new information reveals effects of the action that were not previously considered, this determination may be reconsidered. If project plans change or if portions of the project were not evaluated, it is our recommendation that you contact our office for further review.

This technical assistance letter is submitted in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the Endangered Species Act, of 1973, as amended, and is consistent with the intent of the National Environmental Policy Act of 1969, the U. S. Fish and Wildlife Service's Mitigation Policy. .

If you have questions, or if we may be of further assistance in this matter, please contact Sarena Selbo at extension 17 in this office.

Sincerely,



Mary M. Knapp, Ph.D.
Supervisor

cc: ODNR, Div. of Wildlife, SCEA Unit, Columbus, OH

Van Horn-Bash, Heidi

From: John Januska [john.januska@epa.state.oh.us]
Sent: Wednesday, February 12, 2003 8:39 AM
To: Van Horn-Bash, Heidi
Cc: Kurt Princic
Subject: Reply to Feb 3 Letter

We concur with your findings regarding Section 402 of the Clean Water Act.

We also do not believe there are any Ohio Epa permits required as long as the crossties and/or other debris are disposed at a licensed C&D Facility.

If this is not the case please contact Kirt Princic ,Manager of the Division of Solid Waste NEDO.



DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

REPLY TO
ATTENTION OF:

February 20, 2003

Regulatory Branch

SUBJECT: Determination of No Jurisdiction for Application No.
2003-00804(0)

Ms. Heidi VanHorn-Bash
Director - Asset Management
CSX Transportation
500 Water Street - J200
Jacksonville, Florida 32202

Dear Ms. VanHorn-Bash:

This pertains to your proposal to abandon a portion of your rail line in the vicinity of the Little Cuyahoga River, located off of Eastwood Avenue, in the City of Akron, Summit County, Ohio.

The Corps of Engineers regulatory responsibilities under Section 404 of the Clean Water Act establishes jurisdiction over the discharge of dredged or fill material into waters of the United States, including wetlands.

The information contained in your letter indicates that the proposed work will not be performed in any waters of the United States, and will not involve a freshwater wetland. Therefore, a Department of the Army permit is not required.

Should you modify your proposal to entail a discharge of dredged or fill material into a "Water of the United States" you must contact this office regarding Department of the Army permit requirements.

Although a permit is not required, we request that proper measures be taken to prevent unintentional discharges from entering the waterway.

You are encouraged to contact the appropriate state and local governmental agencies, including the Ohio Environmental Protection Agency (OEPA), to insure that the proposed work complies with their requirements. You can reach the OEPA Division of Surface Water at (614) 644-2001.

-2-

Regulatory Branch
SUBJECT: Determination of No Jurisdiction for Application No.
2003-00804(0)

Questions pertaining to this matter should be directed to me
at (716) 879-4116, by writing to the following address: U.S. Army
Corps of Engineers, 1776 Niagara Street, Buffalo, New York
14207-3199, or by e-mail at: martin.p.wargo@usace.army.mil

Sincerely,


Martin P. Wargo
Biologist

HISTORIC REPORT

**CSX TRANSPORTATION, INC.
AKRON JUNCTION, SUMMIT COUNTY, OHIO
DOCKET AB-55 (SUB-NO. 631X)**

1105.7(e)(1)

PROPOSED ACTION AND ALTERNATIVES. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable detailed map and drawings clearly delineating the project.

CSX Transportation, Inc. (CSXT) proposes to abandon 0.07 of a mile of its rail line at Akron Junction, Summit County, Ohio. The only patron, Terminal Warehouse, has not generated any originating or terminating traffic during the past two years with no known future prospects.

Abandonment of this line will result in the removal of the rail, crossties, and upper layer of ballast; and operations and maintenance of this line will cease.

The only alternative would be not to abandon and to pass the opportunity costs of retaining the line to all other CSXT customers. This would not be a prudent utilization of carrier resources

Two maps which delineate the proposed project are attached. (See Attachments 1 and 2.)

1105.8(d)

- (1) **A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action.**

Attached is an image of topographic map of the project area in Akron, Ohio, courtesy of the U. S. Geological Survey. The line to be abandoned has been identified by a heavy black and white diagonal line. (See Attachment 3.) There are no CSXT-owned structures that are 50 years old or older that are eligible for listing in the National Register that are part of the proposed action.

- (2) **A written description of the right of way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristic of the surrounding area:**

The right of way varies between 30 and 65 feet from the centerline of track. Several sand and gravel pits are located nearby. An aerial image delineating the project area with a heavy black and white diagonal line is included as Attachment 4.

- (3) **Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area:**

There are no railroad structures that are 50 years old or older in the project area.

- (4) **The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known:**

Not Applicable.

- (5) **A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:**

The property proposed for abandonment was formerly owned by The Cleveland, Akron and Cincinnati Railway which merged with other corporations to form the Pennsylvania Ohio & Detroit Railroad Company

in 1924. In 1968, the Penn Central Company was formed by merger of the New York Central Railroad and the Pennsylvania Railroad. By the early 1970s the Penn Central was bankrupt; and in 1976 the U. S. Government created Consolidated Rail Corporation (Conrail) from Penn Central and five other failed eastern railroads.

The line proposed for abandonment was deeded to CSX Transportation by Conrail on February 5, 1990.

Upon receiving abandonment authority, Applicant's operations and maintenance over this line will cease.

- (6) **A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic:**

Not applicable.

- (7) **An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities):**

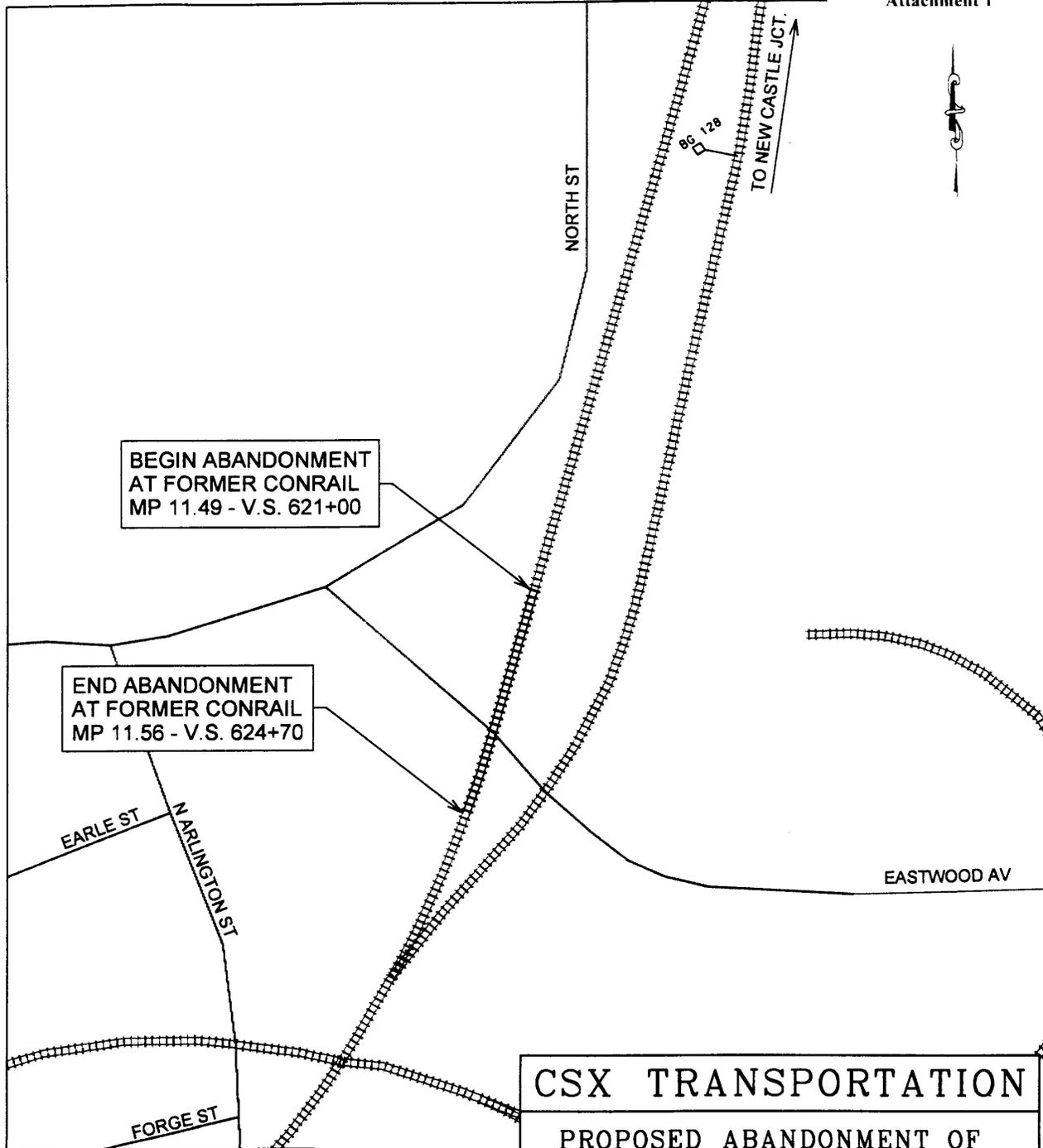
A review of our records indicates there are no CSXT-owned structures over 50 years old on this line segment that are eligible for listing in the National Register.

We do not know of any archeological resources or any other previously unknown historic properties in the project area.

- (8) **A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or man-made) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.**

The line was disturbed during construction by cuts and fill and any archeological resources that may have been located in the proposed project area would have been affected at that time versus during the proposed salvage operations associated with rail removal. Our records

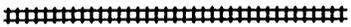
do not indicate that any swampy conditions exist, or that any hazardous material spills have occurred within the project area.



BEGIN ABANDONMENT
AT FORMER CONRAIL
MP 11.49 - V.S. 621+00

END ABANDONMENT
AT FORMER CONRAIL
MP 11.56 - V.S. 624+70

LEGEND

PROPOSED ABANDONMENT

 Total Distance = 0.07 Miles --

WESTERN REGION
 GREAT LAKES DIVISION
 NEW CASTLE SUBDIVISION
 1132' SW. OF BG-128

CSX TRANSPORTATION

**PROPOSED ABANDONMENT OF
370 FEET (.07 mi.+/-) OF TRACK**

City: Akron Jct.	VAL: V115.1 /sht 1
County: Summit	GIS: 09070
State: OH	Scale: 1" = 200 feet
Fips: 39153	Date: 2/13/03
Site ID: OH-153-0997518	Drawn By: LF

S:\P\MO\2003\OH1531153-0063\OH-153-0997518\AKRON_JCT.DGN



Akron, OH



Proposed Abandonment -
370 Feet (0.07 mi. +/-) of Track
Summit County
Akron Jct., OH

Send To Printer Back To TerraServer 11 x 17 Print Size
USGS Akron, Ohio, United States 01 Jul 1996



Image courtesy of the U.S. Geological Survey
© 2002 Microsoft Corporation. All rights reserved. **Terms of Use**

Send To Printer Back To TerraServer 3.5 x 1.1 Print Size
USGS Akron, Ohio, United States 30 Sep 2001





TRANSPORTATION

Heidi VanHorn-Bash
Director - Asset Management

500 Water Street - J-200
Jacksonville, FL 32202
Tel. (904) 359-2409
Fax (904) 359-1111
E-Mail: Heidi_VanHorn-Bash@CSX.com

February 18, 2003

Mr. Mark Epstein, Department Head
Resource Protection and Review
State Historic Preservation Officer
The Ohio Historical Society
567 East Hudson Street
Columbus, OH 43211-1030

**RE: AKRON JUNCTION, SUMMIT COUNTY, OHIO
CSX Transportation, Inc. - Proposed Abandonment
Docket No. AB-55 (Sub-No. 631X)**

Dear Mr. Epstein:

Please be advised that CSX Transportation, Inc., ("CSXT") anticipates filing for abandonment of approximately 0.07 of a mile its rail line at Akron Junction, Summit County, Ohio, as shown in the attached Historic Report.

In connection with rail lines that are to become the subject of applications for authority to abandon, Federal Regulations at 49 CFR 1105.8(d), require that a Historic Report be submitted to the State Historic Preservation Officer prior to filing with the Surface Transportation Board. In accordance with those Regulations, I am attaching a Historic Report covering the above-proposed abandonment.

I will appreciate receiving your letter confirming that this project will have no impact upon cultural resources. If you have questions, please feel free to call me.

Sincerely,

Attachments

Copy:
Surface Transportation Board
Section of Environmental Analysis
1925 K Street NW - Suite 534
Washington, DC 20423-0001

Ms. Natalie S. Rosenberg, Counsel, CSXT, 500 Water St.-J150, Jacksonville, FL 32202

EXHIBIT F

CERTIFICATE OF COMPLIANCE
WITH NOTICE REQUIREMENTS OF
49 C.F.R. 1105.11 and 1105.7(b)

In accordance with 49 C.F.R. §1105.7(b), I hereby certify that on February 28, 2003, a copy of the Environmental Report was served upon the below listed parties, by first-class mail, postage prepaid:

City of Akron
Comprehensive Planning Division
166 High Street - Room 405
Akron, OH 44302

Mr. Jim Oberdordfer
Deputy Director Planning
Summit County Planning Commission
Akron, OH 44308

Ms. Mary M. Knapp, Supervisor
U.S. Department of the Interior
Fish & Wildlife Service
6950-H Americana Parkway - Suite H
Reynoldsburg, OH 43068-4127

U.S. Army Corps of Engineers
Great Lakes and Ohio River, CELRD-RY-CO-F
550 Main Street
Cincinnati, OH 45201-1159

U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3507

Midwest Region
Regional Director
National Park Service
1709 Jackson Street
Omaha, NE 68102

Northeast Ohio Four County
Regional Planning and Dev. Organization
180 East South Street
Akron, OH 44311-2035

Mr. Edward J. McKay
Chief Spatial Reference System Division
DOC/NOAA
National Geodetic Survey N/NGS2
1315 East West Highway Station 8813
Silver Spring, MD 20910-3282

Ms. Kara Tucker
Soil Conservationist
Natural Resources Conservation Service
2795 Front Street, Suite D
Cuyahoga Falls, OH 44221

Mr. Louis A. Jannazo
Bureau Chief of Rail Planners
Ohio Department of Transportation
Ohio Rail Development Commission
Lincoln LeVeque Tower
50 W. Broad Street - 15th Floor
Columbus, OH 43215

Mr. Steve Holland
Consistency Coordinator
Ohio Department of Natural Resources
Of Coastal Management
1630 Sycamore Lane
Sandusky, OH 44870

State of Ohio Environmental Protection Agency
Northeast District Office
2110 East Aurora Road
Twinsburg, OH 44087

In accordance with 49 C.F.R. 1105.8(c), I hereby certify that on February 18, 2003, a copy of the Historic Report was served upon the below listed party, by first-class mail, postage prepaid:

Mr. Mark Epstein, Department Head
Resource Protection and Review
State Historic Preservation Officer
567 East Hudson Street
Columbus, OH 43211-1030


Natalie S. Rosenberg

Dated: March 21, 2003

EXHIBIT G

VERIFICATION

STATE OF FLORIDA)
)
DUVAL COUNTY)

B. J. LEAGUE, being duly sworn, states that she is Assistant Vice President-Asset Management of CSX Transportation, Inc.; that she is authorized to verify and file with the Surface Transportation Board the foregoing Notice of Exemption in Docket No. AB-55 (Sub-No. 631X) on behalf of CSX Transportation, Inc.; that she has carefully examined all of the statements in the Notice of Exemption; that she has knowledge of the facts and matters relied upon in the Notice of Exemption; and that all representations set forth therein are true and correct to the best of her knowledge, information and belief.

Bj League
B. J. LEAGUE

Subscribed and sworn to before me, a Notary Public in and for the State and County above named, this 18th day of MARCH, 2003.

Linda C. Farrok
Notary Public
My Commission Expires: _____

