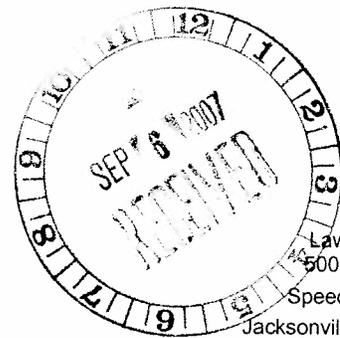




Steven C. Armbrust
 Counsel
 Florida Authorized House Counsel
 Admitted in NY; Not Admitted in FL

220213



Law Department
 500 Water Street
 Speed Code J-150
 Jacksonville, FL 32202
 Fax (904) 245-3357
 Telephone (904) 359-1229
 Email: steven_armbrust@CSX.com

September 7, 2007

Via DHL Overnight Express Mail (Return Receipt Requested)

Honorable Vernon A. Williams
 Secretary
 Surface Transportation Board
 395 East St. SW
 Washington, D. C. 20423



RE: Docket No. No. AB-55 (Sub-No. 649X), *CSX Transportation, Inc.—
 Abandonment Exemption—in Niagara County, NY.*

Dear Secretary Williams:

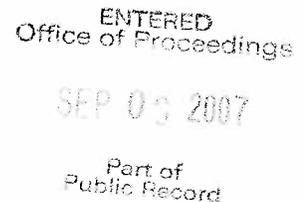
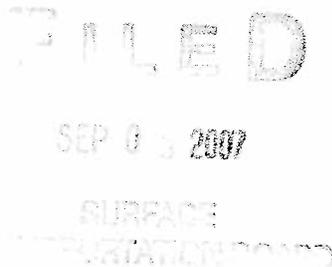
Enclosed are the original and 10 copies of a Verified Notice of Exemption for abandonment in the above-entitled proceeding and the form for processing the filing fee of \$3,200 for the Verified Notice, together with a CD containing the text of the Verified Notice.

Please time and date stamp the additional copy of this letter and return it to me in the self-addressed, stamped envelope. Thank you for your assistance.

If you have any questions please call or email me.

Sincerely yours,

Steven C. Armbrust



Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-55 (Sub-No. 649X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN NIAGARA COUNTY, NY

VERIFIED NOTICE OF EXEMPTION

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

Counsel for: CSX TRANSPORTATION, INC.

Dated: September 7, 2007

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-55 (Sub-No. 649X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN NIAGARA COUNTY, NY

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 abandon a 1.57-mile rail line on its Northern Region, Albany Division, Niagara Subdivision from Railroad Milepost QCJ 13.43 to Railroad Milepost QCJ 15.0, known as the Erie Industrial Track, North Tonawanda, Niagara County, New York (the “Line”). No local or overhead rail traffic has moved over the Line during the past two years.

1. Proposed consummation date. The proposed consummation date is October 29, 2007.

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 abandon a 1.57-mile rail line on its Northern Region, Albany Division, Niagara Subdivision from Railroad Milepost QCJ 13.43 to Railroad Milepost QCJ 15.0, known as the Erie Industrial Track, North Tonawanda, Niagara County, New York. No stations will be impacted by the proposed abandonment.

(4) Map. *See* Exhibit B.

(7) Name, title, and address of representative of applicant to whom correspondence should be sent. Steven C. Armbrust, CSX Transportation, Inc., 500 Water St., J-150, Jacksonville, Florida 32202 (fax: 904-245-3357).

(8) List of all United States Postal Service ZIP Codes that the line proposed for abandonment traverses. The Line traverses ZIP Code 14120.

(e) Rural and community impact. Statement of whether the properties proposed to be abandoned 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 believes that the properties proposed for abandonment may be suitable for other purposes, but may be subject to reversionary interests that may affect transfer of title for other than rail purposes.

4. The level of labor protection. The interests of railroad employees who may be adversely affected by the proposed abandonment 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), 1105.11 and 1105.12 may be found in Exhibit C (Certificate of Service; Certificate of Publication), Exhibit D (Certificate of Distribution of Environmental Report) and Exhibit E (Certificate of Distribution of Historical Report).

6. Environmental Report, etc. See Exhibit D. 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.

7. Historic Report. See Exhibit E.

Respectfully submitted,



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

Counsel for: CSX TRANSPORTATION, INC.

Dated: September 7, 2007

EXHIBIT A

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

[See attached]

EXHIBIT B

MAP

[See attached]



END ABANDONMENT
QCJ 15.0 - (E.O.T.)

BEGIN ABANDONMENT
QCJ 13.43

LEGEND

- CSXT Operating Corridor
- Proposed Abandonment
- Niagara RR Museum

Total Distance = 1.57 Miles +/-

NORTHERN REGION
ALBANY DIVISION
NIAGARA SUBDIVISION
ERIE INDUSTRIAL TRACK
QCJ 13.43 - QCJ 15.0
STB Docket No. AB55-649X
FILE: (NY 304A)

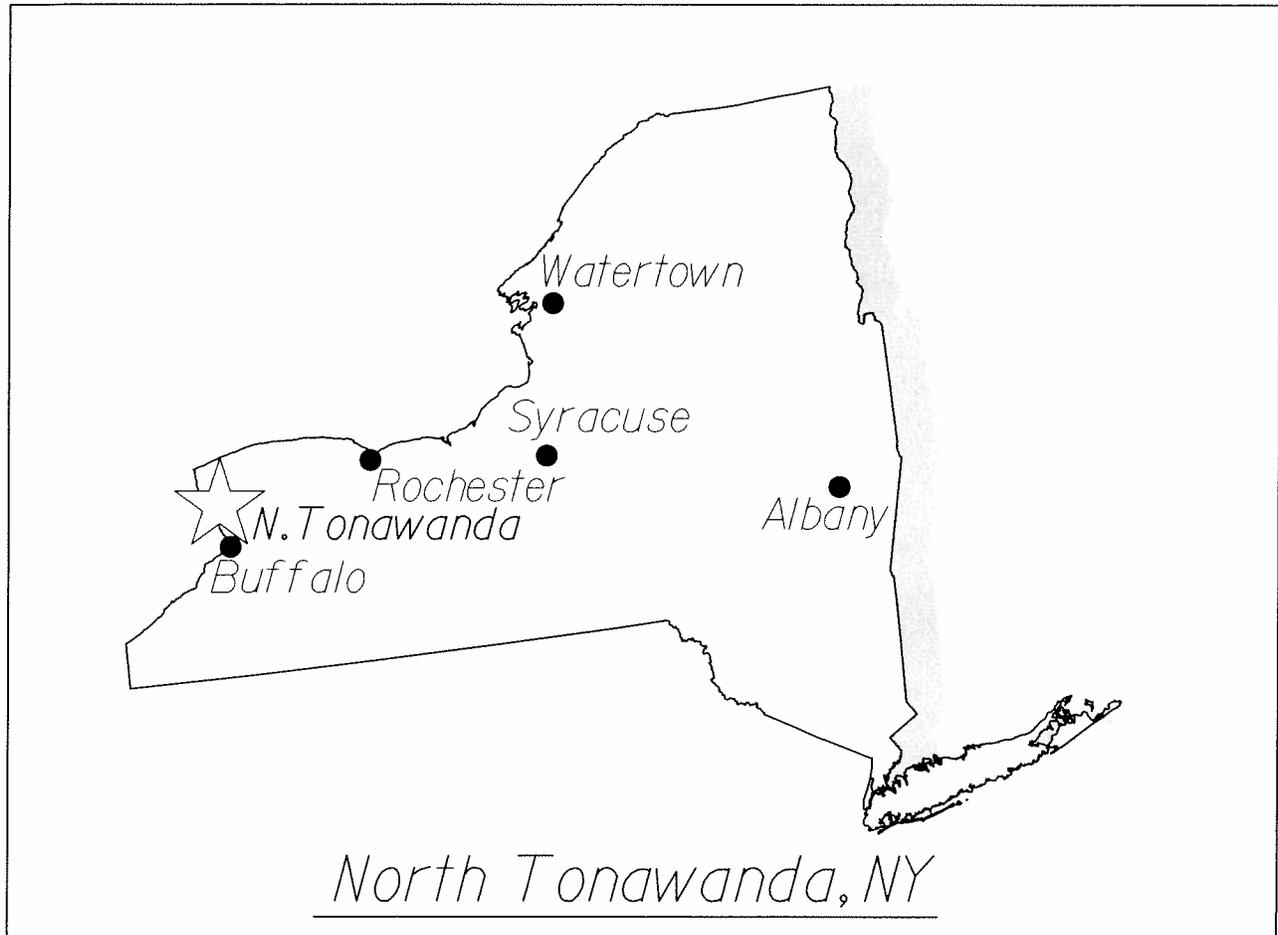
CSX TRANSPORTATION

Proposed Abandonment of the Erie Industrial Track
QCJ 13.43 to QCJ 15.0 (E.O.T.)
a distance of 1.57 Miles +/-
Niagara County, New York

CSX REAL PROPERTY

SCALE: 1" = 1000 Feet

Revised: June 20, 2007
Drawn By: L. Fenwick



AREA MAP

- Proposed Abandonment -
Erie Industrial Track
QCJ 13.43 to QCJ 15.0 - 1.57 miles
North Tonawanda, Niagara County, New York

EXHIBIT C

CERTIFICATES OF SERVICE AND PUBLICATION

[See attached]

CERTIFICATE OF SERVICE

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. 649X) was mailed via DHL overnight mail on August 24, 2007, to the following parties:

State Public Service Commission

New York State Dept. of Public Service
3 Empire State Plaza
Albany, New York 12223-1350

Military Surface Deployment and Distribution Command Transportation Engineering Agency

SDDCTEA
ATTN: Railroads for National Defense
720 Thimble Shoals Blvd.
Suite 130
Newport News, Virginia 23606-2574

National Park Service

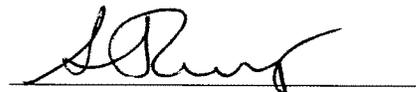
U. S. Department of the Interior
National Park Service
Attention: Mr. Charlie Stockman
Acting Conservation and Outdoor Recreation Manager
1201 I Street, NW, 9th Floor
Washington, DC 20005

National Park Service

U.S. Department of Interior
National Park Service
Land Resources Division
1201 Eye St., N.W.
Washington, DC 20005

U.S. Department of Agriculture

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor N.W., Auditors' Building
14th Street and Independence Avenue, S.W.
Washington, D.C. 20250

A handwritten signature in black ink, appearing to read 'S. Armbrust', is written over a horizontal line.

Steven C. Armbrust
September 7, 2007

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-55 (Sub-No. 649X) was advertised on September 6, 2007 in the Niagara Gazette, a newspaper of general circulation in Niagara County, NY, as required by 49 C.F.R. § 1105.12.



Steven C. Armbrust
September 7, 2007

EXHIBIT D
ENVIRONMENTAL REPORT

[See attached]

**ENVIRONMENTAL REPORT
CERTIFICATE OF SERVICE**

Pursuant to the requirements of 49 C.F.R. §§ 1105.7 and 1105.11, the undersigned hereby certifies that a copy of the Environmental Report in Docket No. AB-55 (Sub-No. 649X) was mailed via first class mail on August 7, 2007 to the following parties:

Mr. Sam Ferraro
Niagara County Planning Commissioner
Vantage Center
6311 Inducon Corporate Drive
Sanborn, NY 14132

Mr. Lawrence Soos, Mayor
City of North Tonawanda
City Hall
216 Payne Avenue
North Tonawanda, NY 14120

U.S. EPA
Region 2
290 Broadway
New York, NY 10007-1866

New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-0001

U.S. Fish and Wildlife Service
New York Field Office
3817 Luker Rd.
Cortland, NY 13045

U.S. Army Corps of Engineers
Buffalo District
1776 Niagara Street
Buffalo, NY 14207-3199

USDA – NRCS
Lockport Service Center
4487 Lake Ave
Lockport, NY 14094-1139

National Park Service
Northeast Region
U.S. Custom House
200 Chestnut St, 5th Floor
Philadelphia, PA 19106

Coastal Resources & Waterfront Revitalization Division
Secretary of State's Office
41 State Street
Albany, NY 12231-0001

National Geodetic Service (NOAA) at
'NGS.InfoCenter@noaa.gov' (via email)

A handwritten signature in black ink, appearing to read 'S. Armbrust', is written over a horizontal line.

Steven C. Armbrust
September 7, 2007

ENVIRONMENTAL REPORT

**CSX TRANSPORTATION, INC.
ERIE INDUSTRIAL TRACK
NIAGARA COUNTY, NEW YORK
DOCKET AB-55 (SUB-NO. 649X)**

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.

CSXT proposes to abandon approximately 1.57-miles of its non contiguous rail operation from Railroad Milepost QCJ 13.42 to QCJ 15.00, known as the Erie Industrial Track in Niagara County, New York.

The above referenced 1.57-mile line has not generated any originating or terminating traffic in over two years.

Abandonment of this line will result in the removal of the rail, crossties, and possibly the upper layer of ballast. CSXT does not intend to disturb any sub grade or sub grade structures. Finally, the operations and maintenance of this line will cease. Removal of the rail line will result in the elimination of three (3) public at-grade crossings.

The only alternative would be not to abandon and to pass the operating loss and capital 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)

Further attached is a list of all agencies which have received a copy of this environmental report. (See Attachment 3)

(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 received a response dated July 31, 2007 from Mr. Lawrence Soos – Mayor of the City of North Tonawanda stating “...we have no objections with the abandonment of this track.” (See Attachment 4)

Applicant received a response dated August 7, 2007 from Mr. Sam Ferraro – Niagara County Planning Commissioner stating “Based on the July 31, 2007 letter sent to you by Mayor Lawrence V. Soos, City of North Tonawanda, this department supports the rail line abandonment of the area known as the Erie Industrial Track in the City of North Tonawanda.” (See Attachment 5)

Based on the fact that the line has not generated any traffic in over 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.**

Applicant has not received a response to its inquiry dated July 3, 2007 to the U. S. Department of Agriculture, Natural Resources Conservation

Service in Lockport, New York seeking information regarding this statement. (See Attachment 6)

While some prime farmland may exist in the vicinity of this project, Applicant feels the simple removal of track material should not have an adverse impact.

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

Applicant received a response dated July 12, 2007 from the New York Department of State – Division of Coastal Resources stating that Applicant's application was incomplete for evaluation. (See Attachment 7)

Applicant contacted Ms. Denise Coldwell at the Division of Coastal Resources on August 3, 2007 and explained that a copy of this environmental report should be received by their office the week of August 6, 2007. In anticipation of this report, Ms. Coldwell advised that completion of the forms in accordance with the letter dated July 12, 2007 may not be necessary. Ms. Coldwell will review this report to determine if any further application or permits are necessary.

Applicant feels that the simple removal of track material should not have an adverse impact on any coastal zone, land or water uses.

- (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 the 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 in excess of the above thresholds.

(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).

Applicant believes that the abandonment will have result in an improvement to public health and safety by the elimination of three (3) public road crossings.

- (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.**

Applicant received a response dated August 7, 2007, from the U.S. Fish and Wildlife Service – New York Field Office seeking "...the U.S. Fish and Wildlife Service has no further comments." (See Attachment 8)

Based upon Applicant's intention to remove only the track material and the upper layer of ballast, we do not believe that any federally endangered or threatened species will be negatively affected or critical habitats modified if the line is abandoned.

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

Based upon Applicant's review of the area, the line segment does not appear to be near any parks, wildlife sanctuaries, refuges, 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.**

Applicant received a response dated August 22, 2007 from Mr. Scot Abrahamson – Senior Attorney stating “No Environmental Impact”. (See Attachment 9)

Applicant received a response dated August 6, 2007, from Mr. Steven Doleski of the New York State Department of Environmental Conservation. (See Attachment 9A)

Applicant does not contemplate any action known to be inconsistent with federal, state and/or local water quality standards. Any necessary permits or applications will be obtained as well as compliance with conditions or procedures required by regulatory agencies.

- (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.**

Applicant has not received a response to its inquiry dated July 3, 2007, to the U. S. Army Corps of Engineers in Buffalo, New York, requesting information regarding this statement. (See Attachment 10)

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

Upon receiving abandonment authority, removal of material will be accomplished by use of the right of way for access, along with existing public and private crossings, and no new access roads are contemplated. Applicant does not intend to disturb any of the underlying roadbed or perform any activities that would cause sedimentation or erosion of the soil, and do not anticipate any dredging or use of fill in the removal of the track material. The crossties and/or other debris will be transported away from the rail line and will not be discarded along the right of way nor be placed or left in streams or wetlands, or along the banks of such waterways. Also, during track removal, appropriate measures will be implemented to prevent or control

spills from fuels, lubricants or any other pollutant materials from entering any waterways. Based upon this course of action, Applicant does not believe a permit under Section 404 of the Clean Water Act will be required.

- (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).**

Applicant received a response dated August 8, 2007, from Mr. Jeffrey Gratz of the U.S. Environmental Protection Agency, Region 2 in New York, New York, stating "We suggest that you contact that agency [New York State Department of Environmental Conservation] directly to determine the need for permit coverage." (See Attachment 11)

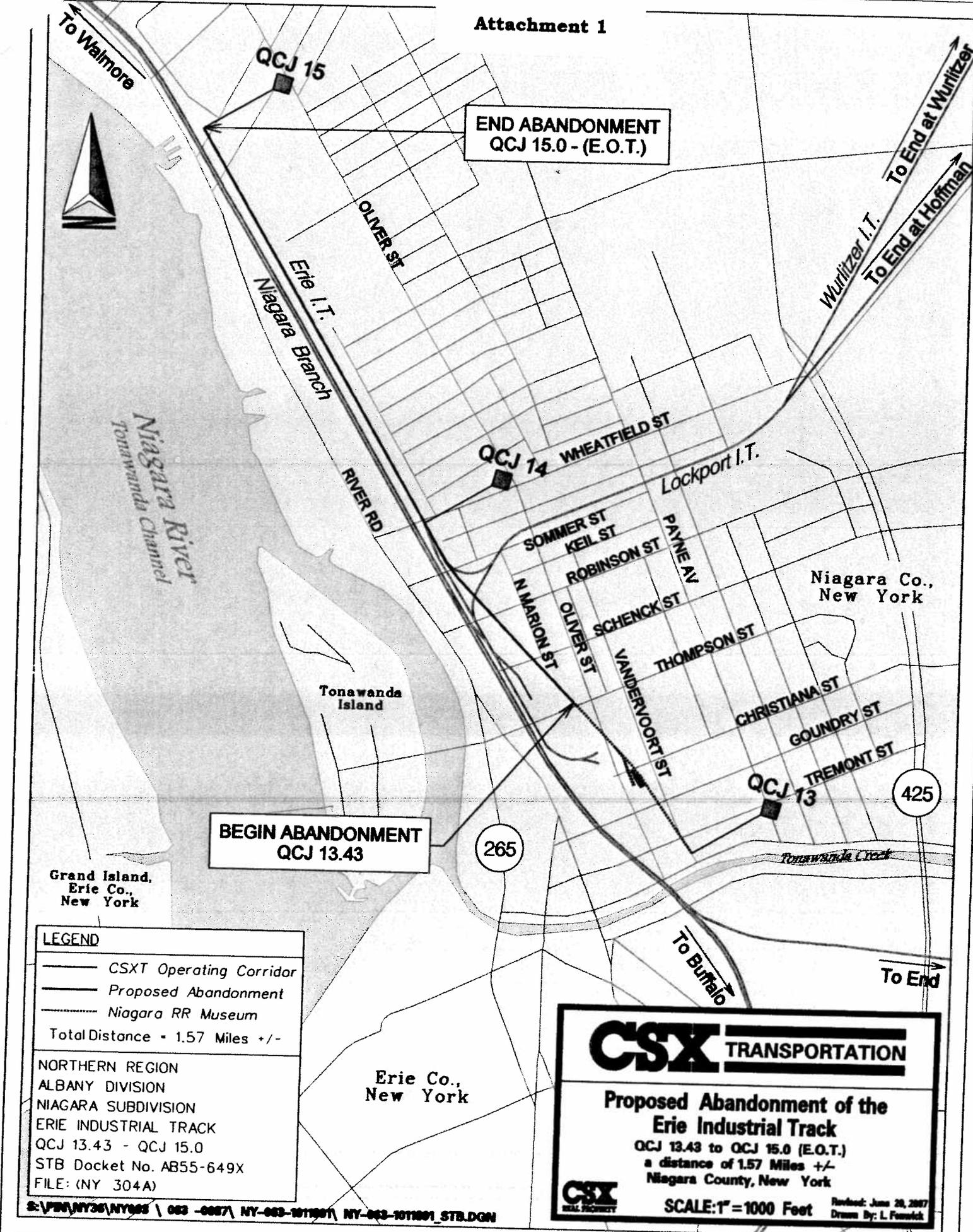
Based upon the course of action described in Section 9 (ii), Applicant does not believe a permit under Section 402 of the Clean Water Act will be required.

10. MITIGATION

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

Applicant does not anticipate any adverse environmental impacts in the project area as a result of this abandonment, however, if mitigation is necessary, Applicant will comply with State and Federal regulations and obtain any reasonable necessary permits required.

Attachment 1



END ABANDONMENT
QCJ 15.0 - (E.O.T.)

BEGIN ABANDONMENT
QCJ 13.43

LEGEND
 — CSXT Operating Corridor
 - - - Proposed Abandonment
 - - - Niagara RR Museum
 Total Distance - 1.57 Miles +/-

NORTHERN REGION
 ALBANY DIVISION
 NIAGARA SUBDIVISION
 ERIE INDUSTRIAL TRACK
 QCJ 13.43 - QCJ 15.0
 STB Docket No. AB55-649X
 FILE: (NY 304A)

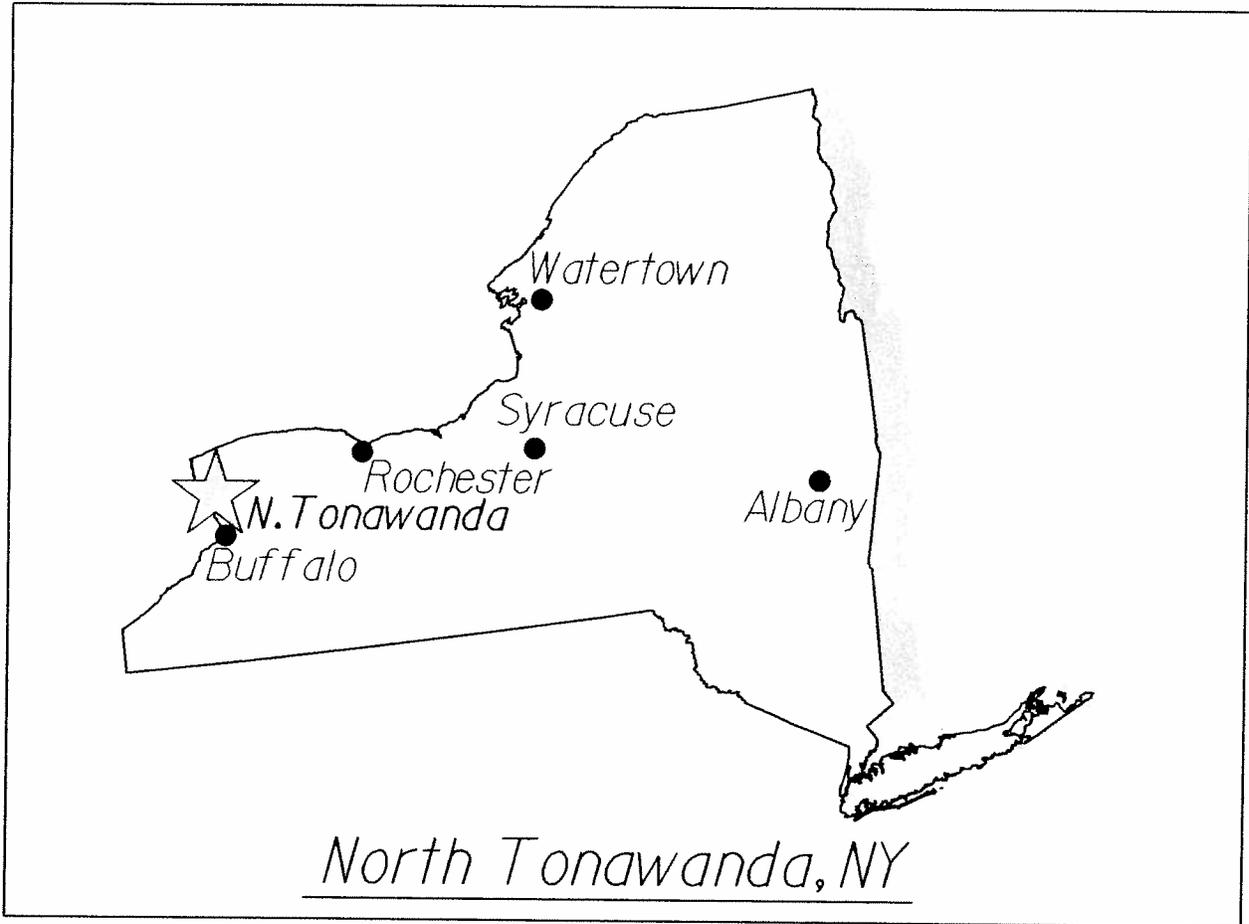
CSX TRANSPORTATION

Proposed Abandonment of the Erie Industrial Track
 QCJ 13.43 to QCJ 15.0 (E.O.T.)
 a distance of 1.57 Miles +/-
 Niagara County, New York

SCALE: 1" = 1000 Feet

Revised: June 28, 2007
 Drawn By: L. Fennelch

S:\PDR\NY36\NY005 \ 003 -0007\ NY-003-101001\ NY-003-101001_STB.DGN



AREA MAP

- Proposed Abandonment -
Erie Industrial Track
QCJ 13.43 to QCJ 15.0 - 1.57 miles
North Tonawanda, Niagara County, New York

NORTHERN REGION - ALBANY DIVISION - NIAGARA SUBDIVISION - ERIE INDUSTRIAL TRACK

Attachment 3

**Erie Industrial Track, North Tonawanda, NY
STB Docket Number AB-55 (Sub No. 649X)
External Distribution List**

**Mr. Sam Ferraro
Niagara County Planning Commissioner
Vantage Center
6311 Inducon Corporate Drive
Sanborn, NY 14132**

**Mr. Lawrence Soos, Mayor
City of North Tonawanda
City Hall
216 Payne Avenue
North Tonawanda, NY 14120**

**U.S. EPA
Region 2
290 Broadway
New York, NY 10007-1866**

**New York State Department of
Environmental Conservation
625 Broadway
Albany, New York 12233-0001**

**U.S. Fish and Wildlife Service
New York Field Office
3817 Luker Rd.
Cortland, NY 13045**

**U.S. Army Corps of Engineers
Buffalo District
1776 Niagara Street
Buffalo, NY 14207-3199**

**USDA - NRCS
Lockport Service Center
4487 Lake Ave
Lockport, NY 14094-1139**

**National Park Service
Northeast Region
U.S. Custom House
200 Chestnut St, 5th Floor
Philadelphia, PA 19106**

**Coastal Resources & Waterfront
Revitalization Division
Secretary of State's Office
41 State Street
Albany, NY 12231-0001**

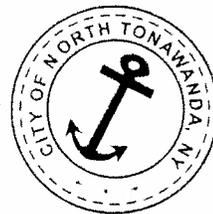
**DOC/NOAA
Via: Email**

City of North Tonawanda

Office of the Mayor
Lawrence V. Soos

Attachment 4

Jeffrey N. Mis, Esq.
Administrative Assistant



RCVD 8/9/07

July 31, 2007

Dave Geraci
Manager, Network Rationalization
CSX Transportation
600 Water Street – J200
Jacksonville, FL 32202

Re: Your Proposal to Abandon the
"Erie Industrial Track"

Dear Mr. Geraci:

Please be advised that I have reviewed the above noted request by your company with my Department Heads and have determined that there will be no negative impact with regard to the abandonment of the "Erie Industrial Track."

Consequently, speaking on behalf of the City, we have no objections with the abandonment of this track.

If you have further questions, please do not hesitate to contact me.

Sincerely,

Lawrence V. Soos
Mayor

LVS/saw
C: Files
CSX Rail Line

Attachment 5

Samuel M. Ferraro
Commissioner

August 7, 2007

Mr. David Geraci
Project Manager
CSX Transportation
500 Water Street – J200
Jacksonville, FL 32202

RE: CSX Transportation Proposed Abandonment of Erie Industrial Track in North Tonawanda, NY

Dear Mr. Geraci:

Thank you for your July 3, 2007 letter and allowing Niagara County Department of Economic Development to comment on the above referenced project.

Based on the July 31, 2007 letter sent to you by Mayor Lawrence V. Soos, City of North Tonawanda (attached), this department supports the rail line abandonment of the area known as the Erie Industrial Track in the City of North Tonawanda. According to Mayor Soos' letter there will be no negative impact related to the abandonment of this section of rail line.

If you have any questions in this regard, please feel free to contact Ms. Amy Fisk of my staff at (716) 278-8750.

Thank you.

Sincerely,



Samuel M. Ferraro, Commissioner
Niagara County Department of Economic Development

Enclosure – Mayor Lawrence V. Soos' July 31, 2007 Letter

CC: Mayor Lawrence V. Soos, City of North Tonawanda
James Sullivan, Executive Director, Lumber City Development Corporation
Andrea McNulty, Niagara County Legislator, 9th District
Peter E. Smolinski, Niagara County Legislator, 10th District
Malcolm A. Needler, Niagara County Legislator, 11th District
Richard E. Updegrove, Chairman, NC Economic Development Committee
Gregory D. Lewis, Niagara County Manager
Amy E. Fisk, AICP, Senior Planner, NC Department of Economic Development

City of North Tonawanda

Office of the Mayor
Lawrence V. Soos



July 31, 2007

Dave Geraci
Manager, Network Rationalization
CSX Transportation
600 Water Street – J200
Jacksonville, FL 32202

Re: Your Proposal to Abandon the
"Erie Industrial Track"

Dear Mr. Geraci:

Please be advised that I have reviewed the above noted request by your company with my Department Heads and have determined that there will be no negative impact with regard to the abandonment of the "Erie Industrial Track."

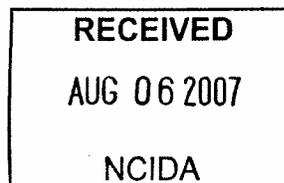
Consequently, speaking on behalf of the City, we have no objections with the abandonment of this track.

If you have further questions, please do not hesitate to contact me.

Sincerely,

Lawrence V. Soos
Mayor

LVS/saw
C: Files
CSX Rail Line





Dave Geraci
Manager - Network Rationalization

Attachment 6

500 Water Street - J200
Jacksonville, FL 32202
Phone: (904) 369-1088
FAX: (904) 369-1111
E-Mail: Dave_Geraci@CSX.com

July 3, 2007

USDA - NRCS
Lockport Service Center
4487 Lake Ave
Lockport, NY 14094-1139

Gentlemen:

Please be advised that CSX Transportation, Inc. is proposing an abandonment of a portion of its rail line in North Tonawanda from Railroad Milepost QCJ 13.43 to Railroad Milepost QCJ 15.0, a distance of 1.57 miles, known as the "Erie Industrial Track", Niagara County, New York, as depicted on the attached map.

Due to a track rehabilitation and realignment in conjunction with the environmental remediation of nearby lands, this line segment is no longer contiguous to the CSXT network. Further, an adjacent customer has requested a purchase of a parcel of CSXT owned land to expand their current facility. Abandonment of this line will result in the removal of three (3) public at-grade crossings.

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

"Based on consultation with the U. S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land."

Please advise if any of the land contiguous to CSXT's line in the project area is classified as prime agriculture land.

Enclosed, please find a distribution list of all parties that have been copied of the proposed action.

Sincerely,

Attachment



Eliot Spitzer
Governor

Date: July 12, 2007

**Notice of Incomplete Coastal Consistency Submission
for a Federal Authorization**

The Division of Coastal Resources received correspondence regarding your application for a federal permit or other authorization and the proposal's consistency with the New York Coastal Management Program. Unfortunately, your correspondence did not include all the necessary information and data required for us to begin our review of your proposal. Please provide us with the following necessary information and data. Please refer to the file number identified below when submitting the required information. Once the required information has been received and our review has begun additional information needs may be identified.

FILE #: F-2007-0594 **APPLICANT:** CSX Transportation, Inc. **AGENT:** Dave Geraci

- X A copy of a completed and a signed Federal Consistency Assessment Form including the required written analysis (cf. D.2) of the proposed activity's consistency with the policies of the State's Coastal Management Program.
- X A copy of your application for federal agency authorization (e.g. a Joint U.S. Army Corps of Engineers & NYS Department of Environmental Conservation permit application).
- A copy of all supporting documentation submitted with the federal application and the following information if it is not included in the above:
 - detailed description of the proposed activity including its associated facilities and coastal effects
 - location map showing where the activity will be conducted
 - site map drawn to scale and showing all components of the activity
 - X recent color photographs of the project site
 - written statement of the purpose of, and need for, the activity
 - identification of the owner(s) of all properties on which the activity will be conducted and of abutting property owners, both upland and underwater
 - written analysis of alternatives to the proposed activity considered by the applicant
- A copy of the Final Environmental Impact Statement, if one is required by an involved federal or state agency
- Copies of any applications for permits or other authorizations, and related correspondence, submitted to involved State agencies (e.g. DEC, OGS, SHPO, PSC).

Please submit the above checked information to: NYS Department of State
Division of Coastal Resources
Attn: Consistency Review
41 State Street
Albany, NY 12231

If you have any questions regarding this matter, you may contact us by telephone at (518) 474-6000. (Additional information is available on our website, www.dos.state.ny.us.)

cc: COE/Buffalo District - D. Kozlowski
NYSDEC/Region 9- Steven Doleski

Attachment 8



United States Department of the Interior



FISH AND WILDLIFE SERVICE

New York Field Office

3817 Luker Road

Cortland, NY 13045

Phone: (607) 753-9334 Fax: (607) 753-9699

http://www.fws.gov/northeast/nyfo

To: Dave Geraci

Date: August 7, 2007

USFWS File No: 70777

Regarding your: letter FAX E-mail dated: July 3, 2007

For project: Abandonment of CSX Transportation's Rail Line - Erie Industrial Track

Located: Railroad Milepost QCJ 13.43 to Railroad Milepost QCJ 15.0

In Town/Courty: Town of North Tonawanda, Niagara County

Pursuant to the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), the U.S. Fish and Wildlife Service:

- Has no further comments
- Concurs with your determination and has no further comments
- Is taking no action pursuant to ESA or any other legislation at this time but would like to be kept informed of project developments

As a reminder, until the proposed project is complete, we recommend that you check our website (<http://www.fws.gov/northeast/nyfo/es/section7.htm>) every 90 days from the date of this letter to ensure that listed species presence/absence information for the proposed project area is current.

USFWS Contact(s):

Robyn

Supervisor:

June M. Decker

Date:

8/7/07

CSXT Environmental Report Response Form

STB Docket Number AB 55 Sub No. 649X

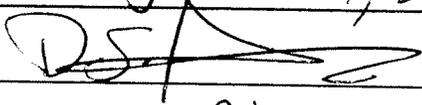
Notice of Exemption from Railroad Milepost QCJ 13.43 to Railroad Milepost QCJ 15.0, known as the Erie Industrial Track in North Tonawanda, Niagara County, New York.

Agency response (check one):

No Environmental Impact

Environmental Impact as follows (or attached):

Date: August 22, 2007

Signature: 

Name: Scott Abrahamson

Title: Senior Attorney



New York State Department of Environmental Conservation
625 Broadway, 14th Floor
Albany, NY 12233-1500

SCOTT ABRAHAMSON
Senior Attorney
Division of Legal Affairs
Office of General Counsel

Tel: (518) 402-9223 Fax: (518) 402-9018

E-MAIL: dsabraha@gw.dec.state.ny.us

New York State Department of Environmental Conservation

Division of Environmental Permits, Region 9

270 Michigan Avenue, Buffalo, New York, 14203-2999

Phone: (716) 851-7165 • FAX: (716) 851-7168

Website: www.dec.state.ny.us



Alexander B. Grannis
Commissioner

Attachment 9A

August 6, 2007

Mr. Dave Geraci
CSX Transportation
500 Water Street - J200
Jacksonville, Florida 32202

Dear Mr. Geraci:

**CSX TRANSPORTATION
PROPOSED ABANDONMENT OF
ERIE INDUSTRIAL TRACK
(C) NORTH TONAWANDA - NIAGARA COUNTY**

In response to your July 3, 2007 letter received by the Division of Environmental Permits in the Region 9 Buffalo Office on July 13, 2007, please be advised of the following:

1. Based on the information provided in the letter it appears that CSX is trying to conduct the railroad abandonment work in a manner that would protect water quality and prevent erosion during the track and cross tie removal. Obviously, the wooden cross ties should be recycled for reuse or if too deteriorated for future use, taken to an appropriate landfill for proper disposal.
2. If CSX is required to obtain local/state permits pursuant to the Surface Transportation Board recommendations, since project activities will likely involve land disturbance of over 1 acre, the project sponsor is required to obtain a State Pollutant Discharge Elimination System General Permit (GP-02-01) for Stormwater Discharge from Construction Activities. A Notice of Intent (NOI) is required to be sent to NYSDEC, Bureau of Water Permits, 625 Broadway, Albany, New York 12233-3505, telephone: 518/402-8111 and approved before construction commences. The General Permit GP-02-01 and NOI form are available on the Department's website at www.dec.state.ny.us.

This General Permit requires the project sponsor (operator) and all contractors and subcontractors to control stormwater runoff according to the Stormwater Pollution Prevention Plan, which is to be developed prior to filing NOI and prior to commencement of the project.

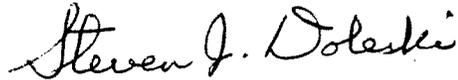
If you obtain the noted General Permit and conduct your operations in accordance with the requirements, water quality and erosion control standards should be accomplished satisfactorily.

Mr. Dave Geraci
August 6, 2007
Page 2

In respect to whether there may be permits required pursuant to Section 402 of the Clean Water Act, this office is unable to make that determination.

I trust that this letter provides the official verification that you have requested.

Respectfully,



Steven J. Doleski
Regional Permit Administrator

SJD:jaf

cc: U.S. Department of the Army, Corps of Engineers, Buffalo District Office



Dave Geraci
Manager - Network Rationalization

Attachment 10

500 Water Street - J200
Jacksonville, FL 32202
Phone: (904) 359-1088
FAX: (904) 359-1111
E-Mail: Dave_Geraci@CSX.com

July 3, 2007

U.S. Army Corps of Engineers
Buffalo District
1776 Niagara Street
Buffalo, NY 14207-3199

Gentlemen:

Please be advised that CSX Transportation, Inc. is proposing an abandonment of a portion of its rail line in North Tonawanda from Railroad Milepost QCJ 13.43 to Railroad Milepost QCJ 15.0, a distance of 1.57 miles, known as the "Erie Industrial Track", Niagara County, New York, as depicted on the attached map.

Due to a track rehabilitation and realignment in conjunction with the environmental remediation of nearby lands, this line segment is no longer contiguous to the CSXT network. Further, an adjacent customer has requested a purchase of a parcel of CSXT owned land to expand their current facility. Abandonment of this line will result in the removal of three (3) public at-grade crossings.

This action requires Surface Transportation Board approval and Federal Regulations 49 C.F.R. 1105.7(9)(ii) require that we develop a response to the following statement:

"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."

It is our opinion that there will be no impact on designated wetlands or 100-year flood plains because our intent at this time is to only remove CSXT's metal track material, crossties and perhaps the upper layer of ballast, and to preserve the existing routes of water flow and drainage. We do not intend to disturb any of the underlying roadbeds or perform any activities that would cause sedimentation or erosion of the soil, and we do not anticipate any dredging or use of fill in the removal of the track material. The track removal will be accomplished by use of the right of way for access, along with existing public and private crossings, and no new access roads are contemplated. The crossties and/or other debris will be transported away from the rail line and will not be discarded along the right of way, nor be placed or left in streams or wetlands, or along the banks of such waterways.

Based upon the above described actions, we would appreciate your concurrence in CSXT's position that there would be no adverse impact on wetlands or 100-year flood plains, and that no permits under Section 404 will be required.

We would appreciate your comments; and, if you have any questions, please feel free to call me.

Enclosed, please find a distribution list of all parties that have been copied of the proposed action.

Sincerely,

Attachment



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

Attachment 11

AUG 08 2007

Mr. Dave Geraci, Manager
Network Rationalization
CSX Transportation
500 Water Street - J200
Jacksonville, Florida 32202

Dear Mr. Geraci:

We are in receipt of your July 3, 2007 letter in which you asked whether your proposed abandonment of a portion of railroad, which would involve the "removal of three (3) public at-grade crossings," would be consistent with applicable water quality standards and/or require a permit under Section 402 of the Clean Water Act.

The New York State Department of Environmental Conservation is authorized to implement the Section 402 permit program in New York. We suggest that you contact that agency directly to determine the need for permit coverage. A point of contact is:

Mr. Alan Fuchs, Acting Chief
Bureau of Water Permits
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-3505

If you have any additional concerns, please contact me at (212) 637-3873.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jeffrey F. Gratz".

Jeffrey F. Gratz, Chief
Point and Nonpoint Source Control Section
Division of Environmental Planning and Protection

cc: Alan Fuchs, Acting Chief, Bureau of Water Permits, New York State Department of Environmental Conservation (w/incoming correspondence)

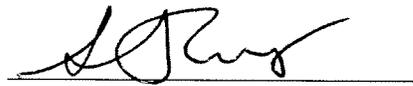
EXHIBIT E
HISTORIC REPORT

[See attached]

**HISTORIC REPORT
CERTIFICATE OF SERVICE**

Pursuant to the requirements of 49 C.F.R. §§ 1105.8(c) and 1105.11, the undersigned hereby certifies that a copy of the Historic Report in Docket No. AB-55 (Sub-No. 649X) was mailed via first class mail on July 25, 2007, to the following person:

Ms. Carol Ash
New York State Historic Preservation Officer
Parks, Recreation & Historic Preservation
Agency Building # 1
Empire State Plaza
Albany, NY 12238



Steven C. Armbrust
September 7, 2007



New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

Elliot Spitzer
Governor

Carol Ash
Commissioner

August 10, 2007

Dave Geraci
CSX Transportation
500 Water Street
Jacksonville, Florida 32202

Re: STB
CSX Transportation, Line Abandonment, 1.57
miles
North Tonawanda/NORTH TONAWANDA,
Niagara County
07PR04306

Dear Mr. Geraci:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). We have reviewed the project in accordance with Section 106 of the National Historic Preservation Act of 1966.

Based upon this review, it is the SHPO's opinion that your project will have No Effect upon cultural resources in or eligible for inclusion in the National Registers of Historic Places.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont
Director



Dave Geraci
Manager - Network Rationalization

500 Water Street - J200
Jacksonville, FL 32202
Tel. (904) 359-1086
Fax (904) 359-1111
E-Mail: Dave_Geraci@CSX.com

July 25, 2007

Ms. Carol Ash
New York State Historic Preservation Officer
Parks, Recreation & Historic Preservation
Agency Building #1
Empire State Plaza
Albany, NY 12238

RE: CSX Transportation, Inc.
Proposed Line Abandonment
Docket AB-55 (Sub-No. 649X)

Dear Ms. Ash:

Please be advised that CSX Transportation, Inc., anticipates filing for abandonment of approximately 1.57-miles of its rail line in North Tonawanda, Niagara County, New York, 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.

Since there are no structures on this line segment which are 50 years old or older, which may be eligible for listing in the National Register, I would appreciate receiving a letter from your office confirming that this project will have no effect or impact upon cultural resources. If you have questions, please feel free to call me.

Sincerely,

Attachment

Cc: STB - SEA, 395 East Street, SW, Washington, DC 20423-0001

Mr. Steve Armbrust, Counsel, CSXT, 500 Water St.-J150, Jacksonville, FL 32202

HISTORIC REPORT

CSX TRANSPORTATION, INC.
ERIE INDUSTRIAL TRACK
NIAGARA COUNTY, NEW YORK
DOCKET AB-55 (SUB-NO. 649X)

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.

CSXT proposes to abandon approximately 1.57-miles of its non contiguous rail operation from Railroad Milepost QCJ 13.42 to QCJ 15.00, known as the Erie Industrial Track in Niagara County, New York.

The above referenced 1.57-mile line has not generated any originating or terminating traffic in over two years.

Abandonment of this line will result in the removal of the rail, crossies, and possibly the upper layer of ballast. CSXT does not intend to disturb any sub grade or sub grade structures. Finally, the operations and maintenance of this line will cease. Removal of the rail line will result in the elimination of three (3) public at-grade crossings.

The only alternative would be not to abandon and to pass the operating loss and capital 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 a copy of the Tonawanda West quadrangle topographic map prepared by the U. S. Department of Interior Geological Survey. The line to be abandoned has been identified by a heavy black diagonal line. (See Attachments 3.)

There are no CSXT-owned structures that are 50 years old or older that may be 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 operating easement right of way width along this line is approximately 25 feet from the center-line of track. The rail line traverses an urbanized and semi-industrial area.

- (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 CSXT owned structures over 50 years old on this line segment.

- (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:**

This line was acquired by the New York Central & Hudson Railroad (NYC&HRR) between 1870 and 1878. The NYC&HRR was organized on November 1, 1869 through a merger of the Hudson River Railroad Company (incorporated on May 12, 1846) and the New York Central Railroad Company (incorporated on May 1, 1853). Through a series of mergers and acquisitions, this line become owned and operated by the Erie-Lackawanna Railroad (ELRR).

The ELRR suffered many financial battles, which culminated in 1972 with the destruction of many bridges due to Hurricane Agnes. With the Rail Reorganization Act of 1973, the stages were set for ELRR to become part of Conrail. This absorption was complete in April of 1976.

In 1999, CSX Corporation, CSX Transportation's (CSXT) parent company, and Norfolk Southern Corporation (NS) jointly acquired control of Conrail Inc., and its wholly owned subsidiary, Consolidated Rail Corporation (Conrail). As a result of that acquisition, certain assets of Conrail have been assigned to New York Central Lines, LLC (NYC), a wholly owned subsidiary of Conrail, to be exclusively operated by CSXT pursuant to an operating agreement. The line proposed for abandonment and discontinuance of service is included among the property being operated by CSXT pursuant to the NYC operating agreement.

Upon receiving abandonment and discontinuance 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):**

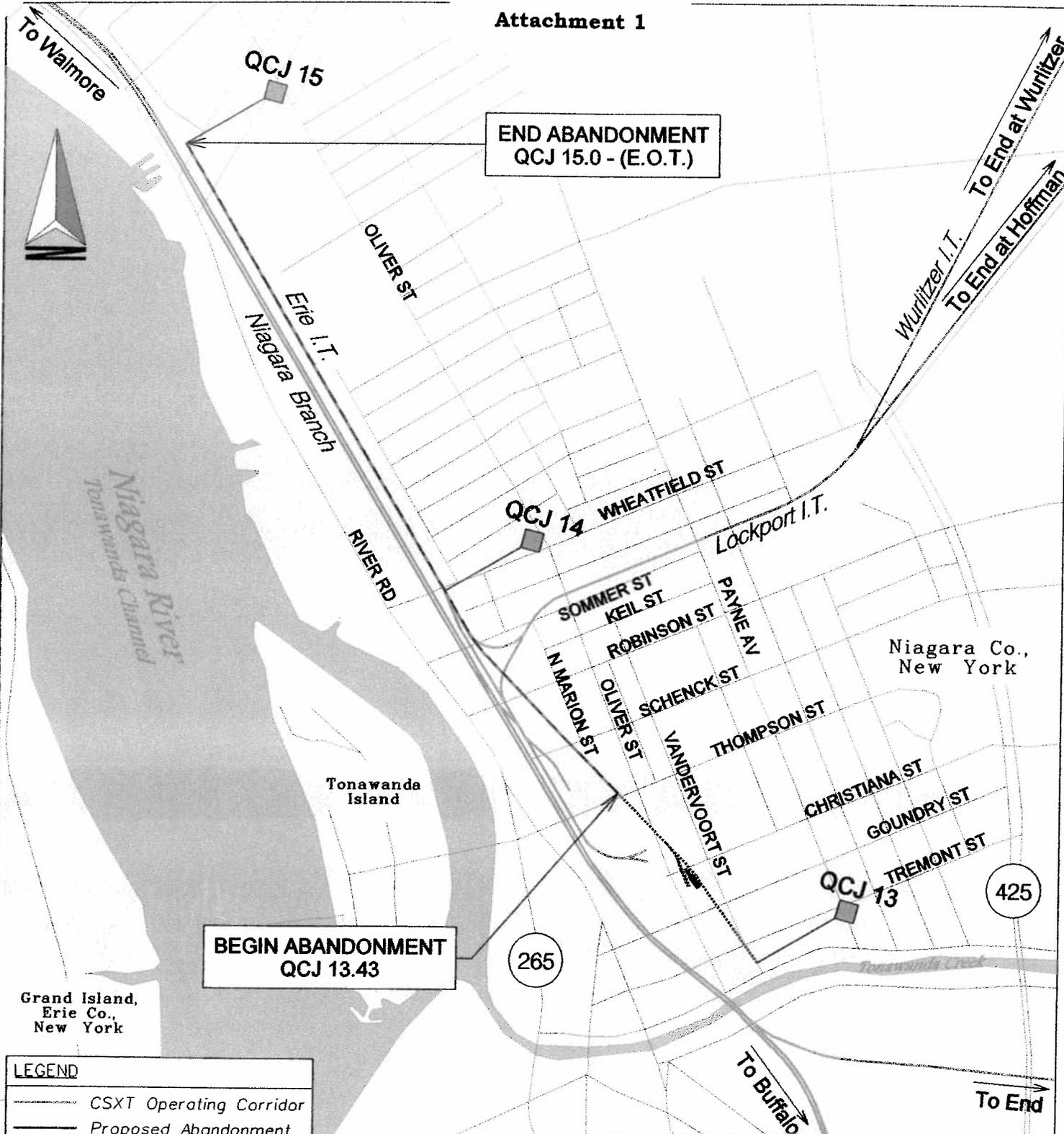
A review of our records indicates there are no CSXT-owned structures over 50 years old on this line segment that are eligible for listing in the National Register.

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.

Attachment 1



Grand Island,
Erie Co.,
New York

Tonawanda
Island

Niagara Co.,
New York

Erie Co.,
New York

LEGEND

- CSXT Operating Corridor
- Proposed Abandonment
- Niagara RR Museum

Total Distance = 1.57 Miles +/-

NORTHERN REGION
ALBANY DIVISION
NIAGARA SUBDIVISION
ERIE INDUSTRIAL TRACK
QCJ 13.43 - QCJ 15.0
STB Docket No. AB55-649X
FILE: (NY 304A)

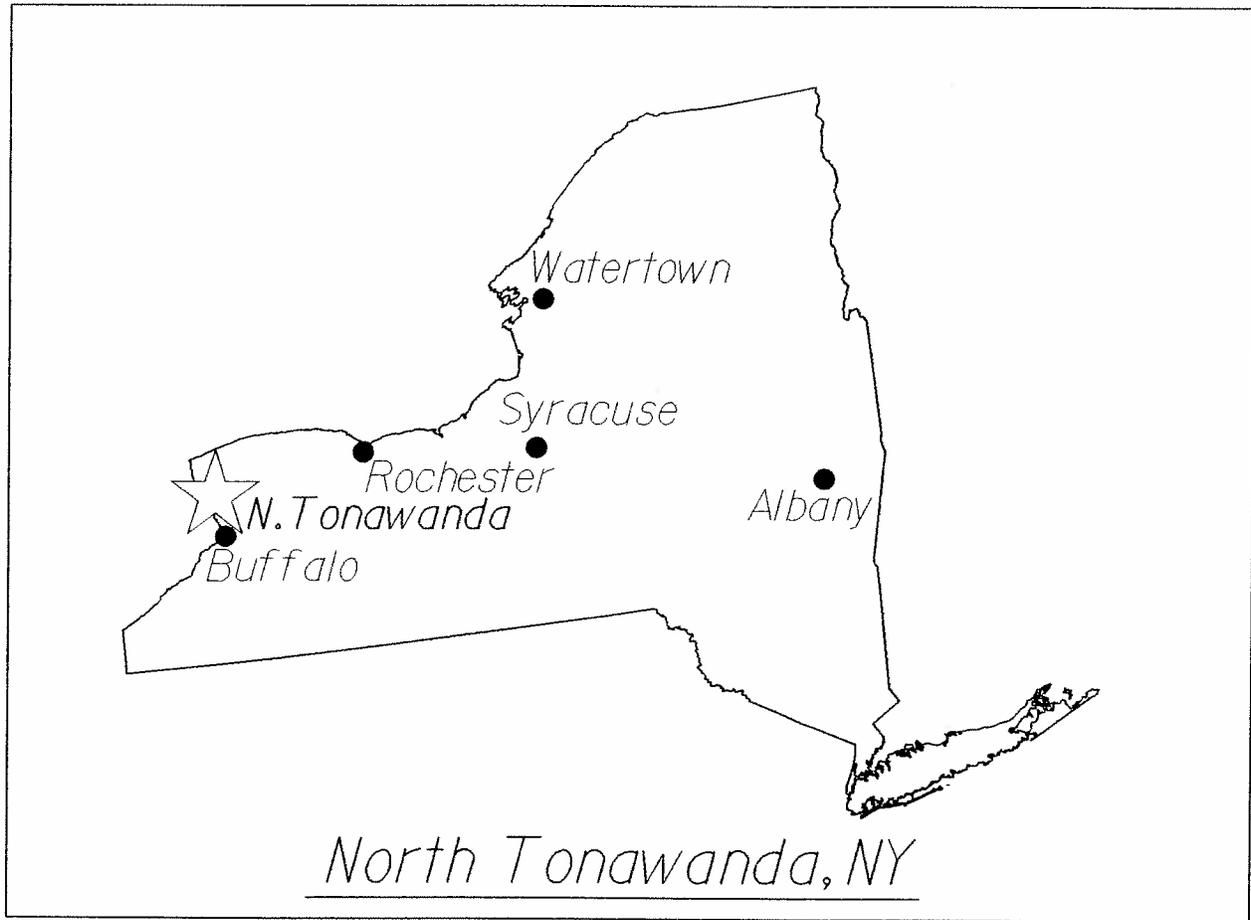
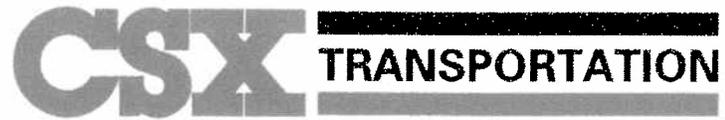
CSX TRANSPORTATION

**Proposed Abandonment of the
Erie Industrial Track**
QCJ 13.43 to QCJ 15.0 (E.O.T.)
a distance of 1.57 Miles +/-
Niagara County, New York

SCALE: 1" = 1000 Feet

Revised: June 20, 2007
Drawn By: L. Fawcok

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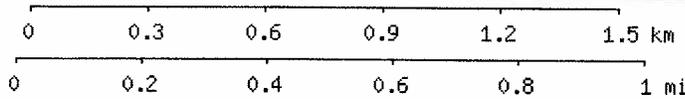
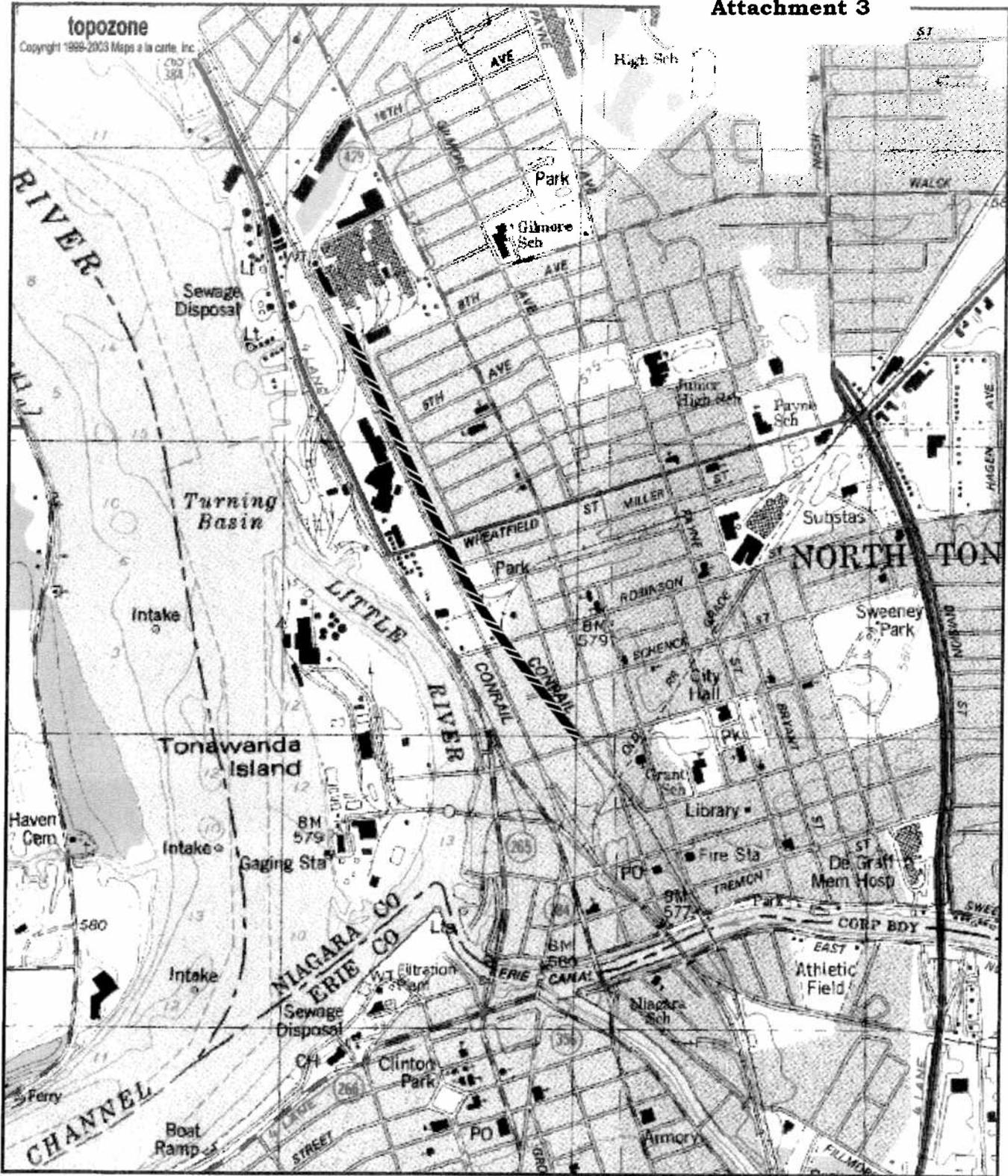


AREA MAP

- Proposed Abandonment -
Erie Industrial Track
QCJ 13.43 to QCJ 15.0 - 1.57 miles
North Tonawanda, Niagara County, New York

NORTHERN REGION - ALBANY DIVISION - NIAGARA SUBDIVISION - ERIE INDUSTRIAL TRACK

Attachment 3



UTM 17 672769E 4766494N (NAD27)
USGS Tonawanda West (NY) Quadrangle
 Projection is UTM Zone 17 NAD83 Datum

