

**SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS**

FINAL ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN
DOCKET NO. AB 55 (SUB-NO. 763X)

October 18, 2016

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

In this proceeding, CSXT Transportation, Inc. (CSXT) filed a notice under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of 3.29 miles of rail line on its Southern Region, Florence Division, Logan Subdivision, in Logan County, West Virginia. The Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) served an Environmental Assessment (EA) for this proceeding on September 30, 2016 for public review and comment. In the EA, OEA recommended one environmental condition and concluded that the proposed action would not significantly impact the quality of the human environment.

Comments on the EA

OEA received one comment during the 15-day comment period. By e-filing dated October 6, 2016, the Eastern Band of Cherokee Indians commented that the proposed abandonment would have no adverse impacts on cultural or historic resources. However, the tribe did request to be immediately notified if any unanticipated archaeological sites, human remains, or Native American cultural items are discovered during salvage and for any post-abandonment development activities along the right-of-way, such as the construction of a recreational trail. Accordingly, OEA has recommended condition 2, but notes that the Board's role is limited to the anticipated impacts of the abandonment proposed before the agency. This includes the diversion of traffic to other rail lines or transportation modes and the consequences of removing the track and related structures, but would preclude the construction of a recreational trail or other post-development activities.¹ Therefore, condition 2 pertains only to the salvage process.

¹ Iowa Southern R. Co.—Exemption—Abandonment, 5 I.C.C.2d 496, 501 (1989), aff'd, Goos v. ICC, 911 F.2d 1283 (8th Cir. 1990).

Conclusions

The EA comment period has ended. Accordingly, OEA recommends that the following two conditions should be imposed upon any decision granting abandonment authority. The conditions are:

1. CSX Transportation, Inc. (CSXT) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. CSXT shall report back to OEA regarding any consultations with the West Virginia Division of Culture and History (State Historic Preservation Office or SHPO) and the public. CSXT may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.
2. In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during the railroad's salvage activities, CSXT shall immediately cease all work and notify OEA and the SHPO, pursuant to 36 C.F.R. § 800.13(b). OEA shall then consult with the SHPO, CSXT, the Eastern Band of Cherokee Indians, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

OEA concludes that if the above conditions are imposed, the proposed action would not significantly affect the quality of the human environment.

Attachment

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Eastern Band of Cherokee Indians
Tribal Historic Preservation Office
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Ph: 828-359-6854 Fax 828-488-2462

DATE: 06 – October – 16

TO: Surface Transportation Board
Case Control Unit
ATTN: Diana Wood
Washington, DC 20423

PROJECT: Docket No. AB 55 (Sub NO. 763X), Logan County, West Virginia.

Ms. Wood:

The Tribal Historic Preservation Office of the Eastern Band of Cherokee Indians (EBCI THPO) accepts the invitation to comment on this proposed section 106 activity under §36CFR800.

It is the opinion of the EBCI THPO that no cultural resources important to the Cherokee people should be adversely impacted by this proposed federal undertaking. As such, this proposed undertaking may proceed as planned. The BCI THPO requests to be updated as to the future status of this segment of rail, i.e. development or trail-building activities, so as to allow us the opportunity to comment. In the event that project design plans change, or cultural resources or human remains are inadvertently discovered during site prep and construction phase, the EBCI THPO requests that all work cease and be notified so we may continue the nation-to-nation consultation process as stipulated under §36CFR800.

If we can be of further service, or if you have any comments or questions, please feel free to contact me at (828) 359-6854.

Sincerely,

Holly Austin
Tribal Historical Preservation Office
Eastern Band of Cherokee Indians