

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 55 (Sub-No. 716X)

**CSX Transportation, Inc.—Abandonment Exemption—
Niagara Falls, Niagara County, N.Y.**

BACKGROUND

In this proceeding, CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Niagara Falls, Niagara County, New York. The rail line proposed for abandonment extends approximately 0.1 miles from milepost 28.0 to milepost 28.1. Maps depicting the line in relationship to the area served are appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

CSXT submitted an Environmental Report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. CSXT served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to CSXT, no local traffic has moved over the Line for at least two years and there is no overhead traffic. Accordingly, the proposed abandonment would not adversely impact the development, use or transportation of energy resources, recyclable commodities or ozone-depleting materials; and would not result in the diversion of rail traffic to truck traffic that could cause significant impacts to air quality or the local transportation network.

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 55 (Sub-No. 716X).

Salvage Activities

If abandonment authority is granted in this proceeding, CSXT has stated that it may salvage rail, crossties, and the upper layer of ballast, but does not intend to disturb any sub-grade, sub-grade structures, or the underlying road bed. Salvage would be conducted using the right-of-way and existing public and private crossings; no new access roads are contemplated.

The United States Department of Agriculture, Natural Resources Conservation Service (NRCS) has submitted comments stating that the land adjacent to the proposed project area is not classified as prime agricultural land and that adverse impacts to prime farmland as a result of the abandonment would be unlikely. Accordingly, no mitigation regarding the conservation of prime agricultural land is recommended.

In its comments, the New York Department of State, Division of Coastal Resources states that the proposed abandonment would not require permitting under the New York Coastal Management Program. Accordingly, no mitigation regarding the protection of coastal resources is recommended.

OEA review has confirmed that the Line does not cross and is not immediately adjacent to any waterway. OEA review of geospatial data from the Federal Emergency Management Agency confirms that the proposed project is not located in either a Special Flood Hazard Area (100-year floodplain) or a regulatory floodway.²

CSXT has stated that proposed abandonment would not result in the discharge of dredge or fill material into waterways or wetlands of the United States. CSXT further states that it does not anticipate that the proposed abandonment would result in any erosion or sedimentation that would affect waterways. If the abandonment is approved, CSXT states that all salvaged material and debris would be transported away from the site for disposal and that appropriate measures would be taken to prevent or control the spillage of fuels, lubricants, and other pollutants.

CSXT requested comments from the New York State Department of Environmental Conservation (NYSDEC) regarding the potential impact of the proposed project on local water quality and storm water management. In its response, NYSDEC indicated that the proposed abandonment would not result in any adverse environmental impacts. Accordingly, permitting under Section 402 of the Clean Water Act (33 U.S.C. § 1342) would not be required.

In its comments, the U.S. Army Corps of Engineers (Corps) indicates that the proposed abandonment would have no impact on the wetlands and waterways of the United States.

² FEMA Mapping Information Platform, <https://hazards.fema.gov/femaportal/wps/portal> (last visited August 21, 2012).

Accordingly, a Corps permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344) would not be required.

CSXT states that there are no known hazardous waste sites or sites where hazardous material spills have occurred on or adjacent to the right-of-way. Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is necessary.

Pursuant to Section 7 of the Endangered Species Act at 50 C.F.R. § 402, OEA conducted a search of the U.S. Department of the Interior, Fish and Wildlife Service (FWS) Endangered Species Database to identify any Federally listed endangered or threatened species that may be present in the project area.³ The search indicated that there are no known endangered or threatened species present in the vicinity of the proposed project. Accordingly, no further consultation or mitigation regarding protected species would be required.

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

In its comments, the National Geodetic Survey notes that there are no geodetic survey markers located in the project area. Accordingly, no geodetic survey markers would be affected by the proposed abandonment.

CSXT states in its Environmental Report that it believes the proposed abandonment to be consistent with existing local land use plans. In its comments, the City of Niagara Falls, Division of Planning and Development agrees that the proposed abandonment is consistent with local land use and zoning plans, as well as with local social and economic considerations.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, OEA does not believe that salvage activities would cause significant environmental impacts.

³ U.S. Fish and Wildlife Service, Endangered Species Database, <http://www.fws.gov/endangered/species> (last visited August 20, 2012).

HISTORIC REVIEW

According to CSXT, the Line was originally constructed as part of the Erie Railroad, and was acquired by CSXT in 1999. The Line consists of a 50-foot wide right-of-way extending approximately 562 feet through the City of Niagara Falls. The sole structure on the line is a 76-foot deck beam steel ballasted bridge (Bridge Number 75.75-304843), which traverses Main Street (State Route 104). CSXT states that this bridge was originally constructed in 1925, but has been periodically modified and reconstructed since that time; the current version was completed in 2012.

Should the Board approve the proposed abandonment, CSXT states that it intends to negotiate a sale of the right-of-way to the National Railroad Passenger Corporation (Amtrak), which operates a passenger rail service along the corridor. CSXT and Amtrak have signed a letter of intent to that effect. In its comments, the City of Niagara Falls has expressed its approval of the plan.

CSXT served its Historic Report on the Iowa State Historical Society (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). The SHPO has submitted comments stating that the proposed abandonment would have no effect on any known historic properties. We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that no known historic properties listed in or eligible for inclusion in the National Register would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's Historic Report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at www.stb.dot.gov.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.⁴ The database indicated that the following federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment:

- Seneca Nation of New York;
- Tonawanda Band of Seneca Indians of New York; and

⁴ Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited August 10, 2012).

- Tuscarora Nation of New York.

Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

CONDITIONS

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

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption would not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Joshua Wayland, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 55 (Sub-No. 716X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at waylandj@stb.dot.gov.

Date made available to the public: August 31, 2012

Comment due date: September 14, 2012

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