

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 290 (Sub-No. 405X)

**Norfolk Southern Railway Company–Abandonment Exemption–
in the City of Cincinnati, Ohio, and Hamilton County, Ohio**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) filed a verified 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 approximately 0.64 miles between milepost CT 3.06 and milepost CT 3.70, including 2,868 feet of unmileposted runaround track located at CT 3.49 in the City of Cincinnati, Ohio, and Hamilton County, Ohio (the Line). The Line traverses United States ZIP Codes 45207 and 45212, and the right-of-way ranges from 50 feet to 200 feet in width along the main track centerline. NSR states that there are no shippers on the Line and that the Line has been out of service for over ten years.

The Line does not contain any federally granted right-of-way; rather, NSR states that some of the right-of-way is in fee simple ownership and some is in easements. The Line travels through residential, commercial and light industrial land uses and abuts the Xavier University (Xavier) campus. NSR is currently in discussions with Xavier for possible acquisition following abandonment. Two maps depicting the Line in relationship to the area served are appended to this Environmental Assessment (EA).

ENVIRONMENTAL REVIEW

NSR submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR 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.

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 290 (Sub-No. 405X).

Diversion of Traffic

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

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. Following abandonment, NSR states that it plans to convey the right-of-way to Xavier with the Line's rail and related track material intact.² Xavier has no immediate plans to salvage the Line's rail and related track material but would be responsible for such salvaging should it occur post abandonment.³

OEA believes that there would be no air quality or noise impacts on the area surrounding the proposed abandonment because no salvage would occur under this abandonment.

The National Geodetic Survey (NGS) commented that there are no geodetic station markers present in the area of the proposed abandonment. Therefore, no further consultation with NGS is recommended.

The Hamilton County Office of Planning and Development (County) commented that the transfer of the right-of-way to a multi-use trail system would align with the County's master plan *Community COMPASS*, which supports multimodal transportation options.⁴ The County believes that the trail network currently in place demonstrates that Xavier is committed to supporting and maintaining these trails as part of the larger trail network. Accordingly, the County finds that the proposed abandonment and transfer of the right-of-way to Xavier would be

² NSR states that in 2010, it received discontinuance authority for over 5.70 miles of rail line between milepost CT 2.10 and milepost CT 7.80, in Hamilton County, Ohio. See Norfolk Southern Ry. Co. – Discontinuance of Service Exemption – In Hamilton County, Ohio, AB-290 (Sub-No. 321X) (STB served June 11, 2010). After receiving discontinuance authority, NSR entered into a lease agreement with Xavier for the portion of rail line currently proposed for abandonment in this docket. As part of the lease, NSR allowed Xavier to place walkways over the Line, providing that the existing track be left in place. Thus, the track is still in place but buried under the walkways.

³ After receiving abandonment authority, NSR indicates that it would execute an agreement with Xavier, prior to conveying the property, to assure that Xavier complies with any Board imposed conditions should Xavier later decide to perform salvage activities.

⁴ See <https://www.hamiltoncountyohio.gov> (last visited October 4, 2019).

consistent with its existing plans.

The U.S. Army Corps of Engineers' (Corps) commented that the proposed abandonment is located in the Mill Creek watershed, a direct tributary to the navigable Ohio River, and may be subject to regulation pursuant to Section 404 of the Clean Water Act (33 U.S.C. § 1344) if fill material is discharged or placed into any water bodies, including inland waterways as a result of salvage activities. The Corps indicated that a wetland delineation may be needed to determine potential impacts. In response, OEA conducted a search of the Environmental Protection Agency's NEPAassist database to determine if such water resources are located in the area of the proposed abandonment.⁵ No wetlands or streams were found in or around the vicinity of the proposed abandonment. Accordingly, OEA has determined the proposed abandonment would not result in the discharge or placement of fill material in any water bodies, including inland waterways and wetlands.

The Natural Resources Conservation Service (NRCS) commented that it has no concerns with regard to the Farmland Protection Policy Act (FPPA). Accordingly, OEA has determined that no further consultation with NRCS is necessary.

The U.S. Fish and Wildlife Service (USFWS) commented that there are no federal wilderness areas, wildlife refuges or designated critical habitats within the area of the proposed abandonment. USFWS anticipates that the proposed abandonment would not adversely affect federally endangered, threatened, proposed, or candidate species. Accordingly, OEA has determined that no further consultation with USFWS is necessary.

The Ohio Department of Natural Resources' Office of Coastal Zone Management commented that the proposed abandonment is not located in Ohio's designated coastal area or the Lake Erie watershed. Accordingly, OEA has concluded that a Federal Consistency Determination, pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 *et seq*) is not required.

The U.S. Environmental Agency (USEPA) commented that it has no further requirements with regard to section 402 of the Clean Water Act based on NSR's description of the proposed abandonment. However, USEPA did recommend contacting Ohio USEPA's Division of Surface Water (Ohio EPA) to determine if there may be any state mandated requirements. Ohio EPA subsequently commented that it has no regulatory concerns with the proposed abandonment. Accordingly, no further consultation with USEPA or Ohio EPA is necessary.

OEA has not yet received responses from other agencies regarding potential environmental impacts associated with the proposed abandonment. Therefore, in addition to the agencies that provided comments, OEA is sending a copy of this EA for review and comment to the National Park Service; the Ohio Department of Transportation; and the City of Cincinnati.

⁵ Environmental Protection Agency NEPAassist Planning Tool, <https://nepassisttool.epa.gov/nepassist/nepamap.aspx?wherestr=victory+parkway%2C+cincinnati+ohio> (last accessed October 7, 2019).

HISTORIC REVIEW

NSR submitted a historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Ohio History Connection (State Historic Preservation Office or SHPO) pursuant to 49 C.F.R. § 1105.8(c).⁶ OEA has not heard from the SHPO and therefore has not been able to consider the SHPO's opinion before determining if the rail line may be potentially eligible for listing on the National Register of Historic Places (National Register). However, OEA has reviewed the SHPO's web site, which includes tools for accessing National Register maps and data bases. OEA was granted access to the SHPO's geographic information system (GIS) to determine if any Section 106 resources are located within the area of potential effects (APE), which the Board has determined that for abandonments constitutes the rail line right-of-way. As stated previously, the right-of-way ranges in width from 50 feet to 200 feet on center, but OEA used the more conservative 200-foot on center width as the APE for the entire length of the proposed abandonment.

OEA's search of the SHPO's GIS indicated that there are no National Register listed or National Register eligible resources in the APE but that one National Register listed property—a former Coca Cola bottling plant—is located outside the APE. The building (located at 1507 Dana Avenue) has been adaptively reused to accommodate its current use as the Alumni Center by Xavier. Based on an examination of historic mapping, this facility may, at one time, have been served by the railroad due to its close proximity, but there is no visual evidence (aerial photography) that the rail line actually entered the large building or the property. The proposed abandonment would cause no changes to this property, and the significant character defining Art Deco design of the building would remain intact and unaffected. The rail line itself, which is buried under walkways, lacks integrity because it no longer has character defining features. There are no visible elements of the rail line present, and the right-of-way in the vicinity of the National Register Coca-Cola building is used for parking. Accordingly, OEA has determined that, pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.5(b), the proposed abandonment would not adversely affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(e), consists of information gathered from the Ohio SHPO's GIS National Register of Historic Places documentation, an examination of historic aerial photographs, as well as the railroad's historic report and this EA, both of which have been made available to the public through posting on the Board's website at <http://www.stb.gov>. OEA is also sending a copy of this EA to the Ohio SHPO for review and comment on this finding.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of

⁶ Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act (NHPA). Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found on the Board's website at [https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation of 106 in Rail Abandonments.pdf](https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation%20of%20106%20in%20Rail%20Abandonments.pdf).

Housing and Urban Development Tribal Directory Assessment Tool to identify federally recognized tribes that may have ancestral connections to the project area.⁷ The database indicates that there are four federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way or APE of the proposed abandonment. The tribes are: the Eastern Shawnee Tribe of Oklahoma; the Miami Tribe of Oklahoma; the Osage Nation; and the Seneca-Cayuga Nation. OEA is sending a copy of this EA to these tribes for review and comment.

CONDITIONS

OEA recommends that no conditions be imposed on any decision granting abandonment authority.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that abandonment of the Line would 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 should 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 4-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).

⁷ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tadat/> (last visited October 8, 2019).

PUBLIC ASSISTANCE

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

COMMENTS

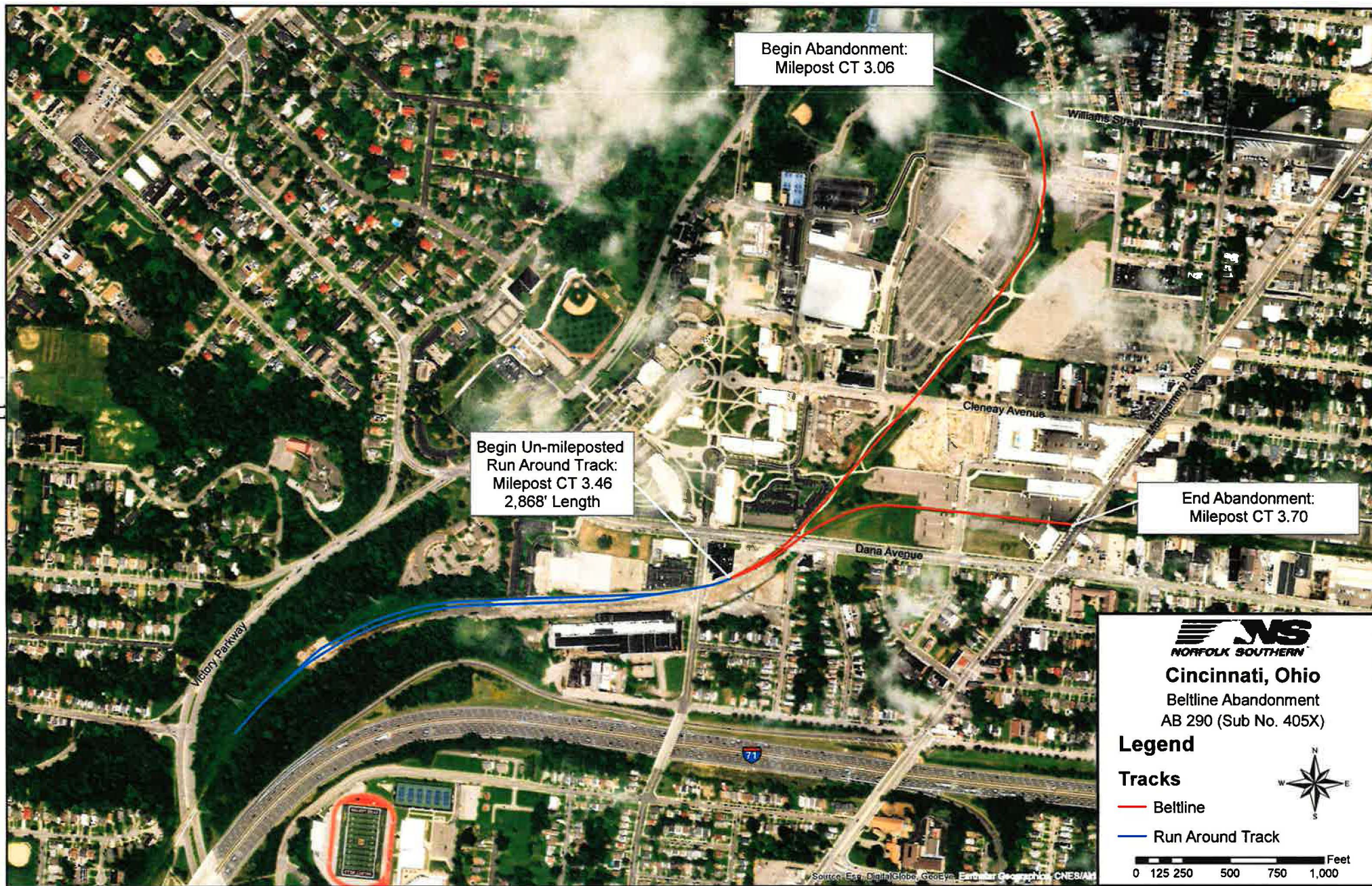
If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Diana Wood, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 290 (Sub-No. 405X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at Diana.Wood@stb.gov.

Date made available to the public: October 15, 2019.

Comment due date: October 30, 2019.

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

Attachments (2 maps)



Begin Abandonment:
Milepost CT 3.06

Begin Un-mileposted
Run Around Track:
Milepost CT 3.46
2,868' Length

End Abandonment:
Milepost CT 3.70



Cincinnati, Ohio

Beltline Abandonment
AB 290 (Sub No. 405X)

Legend

Tracks

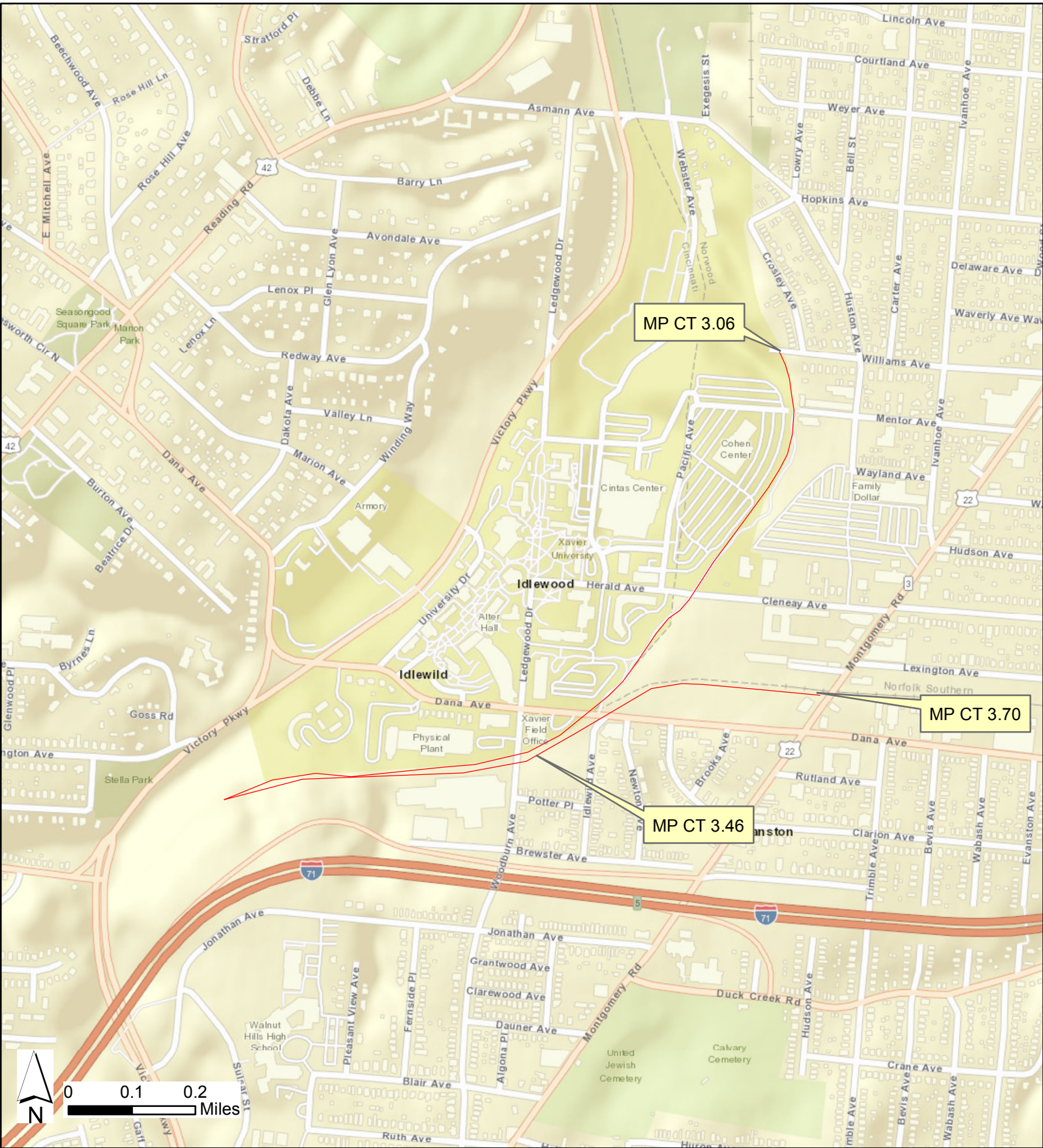
— Beltline

— Run Around Track



0 125 250 500 750 1,000 Feet

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Air



DOCKET NO. AB 290 (Sub-No. 405X)
NORFOLK SOUTHERN RAILWAY COMPANY
ABANDONMENT EXEMPTION
CITY OF CINCINNATI, AND
HAMILTON COUNTY, OHIO

Legend

— the Line

Note: Maps produced by the STB's Office of Environmental Analysis are based on information provided by the applicant and are for reference purposes only.



Location in State