



Law Department
500 Water Street (J150)
Jacksonville, FL 32202
Phone: (904) 359-3194
FAX: (904) 359-1248

Linda C. Farrokh
Legal Assistant

April 26, 2002



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-565 (Sub-No. 9X) 205270
Docket No. AB-55 (Sub-No. 611X) 205271
New York Central Lines, LLC - Abandonment
CSX Transportation, Inc. - Discontinuance of Service
In Allen County, Ohio

DID# 0101932001
DID # 0101932002

Dear Mr. Williams:

Enclosed is a check for \$100.00 to complete the \$5,400 filing fee for York Central Lines, LLC's and CSX Transportation, Inc.'s Notice of Exemption in the above-captioned proceeding.

I would appreciate your acknowledgement of receipt of this check by stamping the extra enclosed copy of this letter and returning it to me in the enclosed self-addressed envelope.

FILED

MAY 29 2002

**SURFACE
TRANSPORTATION BOARD**

Very truly yours,

Linda C. Farrokh
Linda C. Farrokh
Legal Assistant

FEE RECEIVED

APR 29 2002

**SURFACE
TRANSPORTATION BOARD**

Enclosure

**ENTERED
Office of the Secretary**

APR 29 2002

FILED



2/2

Law Department
500 Water Street (J150)
Jacksonville, FL 32202
Phone: (904) 359-1253
FAX: (904) 359-1248
E-Mail: Natalie.Rosenberg@csx.com

Natalie S. Rosenberg
Counsel

April 12, 2002

VIA AIRBORNE EXPRESS

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



205270 DID# 0101932001
205271 DID# 0101932002

**RE: Docket No. AB-565 (Sub-No. 9X)
Docket No. AB-55 (Sub-No. 611X) - New York Central Lines, LLC - Abandonment
CSX Transportation, Inc. - Discontinuance of Service
In Allen County, Ohio**

Dear Mr. Williams:

Enclosed for filing are the original and ten copies of New York Central Lines, LLC's and CSX Transportation, Inc.'s Notice of Exemption in the above-captioned proceeding. Two checks, one in the amount of \$2,600.00, and the other in the amount of \$2,700 are enclosed to cover the filing fees. Another check in the amount of \$100.00 will be forwarded to you next Friday to complete the \$5,400 filing fee.

I apologize for the delay. I would appreciate your acknowledgement of receipt of these documents by stamping the extra enclosed copy of this letter and returning it to me in the enclosed self-addressed stamped envelope.

Very truly yours,

Natalie S. Rosenberg

NSR/lcf

Enclosures (Check No. 7068792 - \$2,600.00 & Check No. 7068921 - \$2,700.00)

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-565 (SUB-No. 9X)
DOCKET NO. AB-55 (SUB-NO. 611X)

NEW YORK CENTRAL LINES, LLC
CSX TRANSPORTATION, INC
DISCONTINUANCE OF SERVICE
IN ALLEN 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: April 12, 2002

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-565 (SUB-No. 9X)
DOCKET NO. AB-55 (SUB-NO. 611X)

NEW YORK CENTRAL LINES, LLC
CSX TRANSPORTATION, INC.
DISCONTINUANCE OF SERVICE
IN ALLEN COUNTY, OHIO

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

New York Central Lines, LLC ("NYC") and CSX Transportation, Inc. ("CSXT") file this Notice of Exemption pursuant to the Board's regulations at 49 C.F.R. §1152.50. This Notice of Exemption filed by NYC and CSXT is for discontinuance of service of a line of railroad from Milepost QFL 51.0 to Milepost QFL 51.9 in Lima, Ohio, a distance of approximately 0.9 miles, which traverses through United States Postal Service ZIP Code 45804 in Allen County, Ohio.¹ In accordance with the aforesaid regulations, NYC and CSXT make the following responses:

¹ CSX Corporation, CSXT's parent company, and Norfolk Southern Corporation jointly acquired control of Conrail, Inc. and its wholly owned subsidiary, Consolidated Rail Corporation ("Conrail"). As a result of such acquisition, certain assets of Conrail have been assigned to NYC, a wholly owned subsidiary of Conrail, to be exclusively operated by CSXT pursuant to an operating agreement. The line that is the subject of this proceeding is included among the property being operated by CSXT pursuant to the NYC operating agreement.

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

1. Proposed Consummation Date.

Since NYC and CSXT are merely seeking permission to discontinue service, no notice of consummation is required.

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) and (e)(4).

(a) General.

(1) Exact name of applicants.

New York Central Lines, LLC and CSX
Transportation, Inc.

(2) Whether applicants are common carriers
by railroad subject to the Interstate
Commerce Act.

NYC and CSXT are common carriers by
railroad subject to the Interstate
Commerce Act.

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

NYC and CSXT seek authority to
discontinue service on the line.

(4) Detailed map of the line.

Maps are attached hereto as Exhibit A.

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

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

- (e) Rural and community impact.

- (4) Statement of whether the properties proposed to be discontinued 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, however, NYC and CSXT are only seeking to discontinue service. As such, NYC and CSXT intend to keep the track in place.²

4. The Level of Labor Protection.

NYC and CSXT understand that, in exempting the proposed discontinuance, 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, NYC and CSXT

² Attachment 3 to Exhibit D is a letter from the Mayor of the City of Lima expressing concern about this proceeding as a result of the City's desire to reroute Indiana and Ohio Railroad traffic over this line. CSXT has not agreed to this proposal but is attempting to contact the City to explain that NYC and CSXT intend to keep the track in place.

anticipate 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 discontinuance.

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 Exhibit 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.

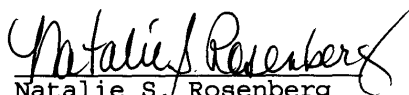
7. Newspaper Notice.

The Newspaper Notice required by 49 C.F.R. 1105.12 was published in *The Lima News*, Lima, Allen County, Ohio, on April 12, 2002. An Affidavit of publication from this newspaper will be forwarded to the Board as soon as it is received by CSXT.

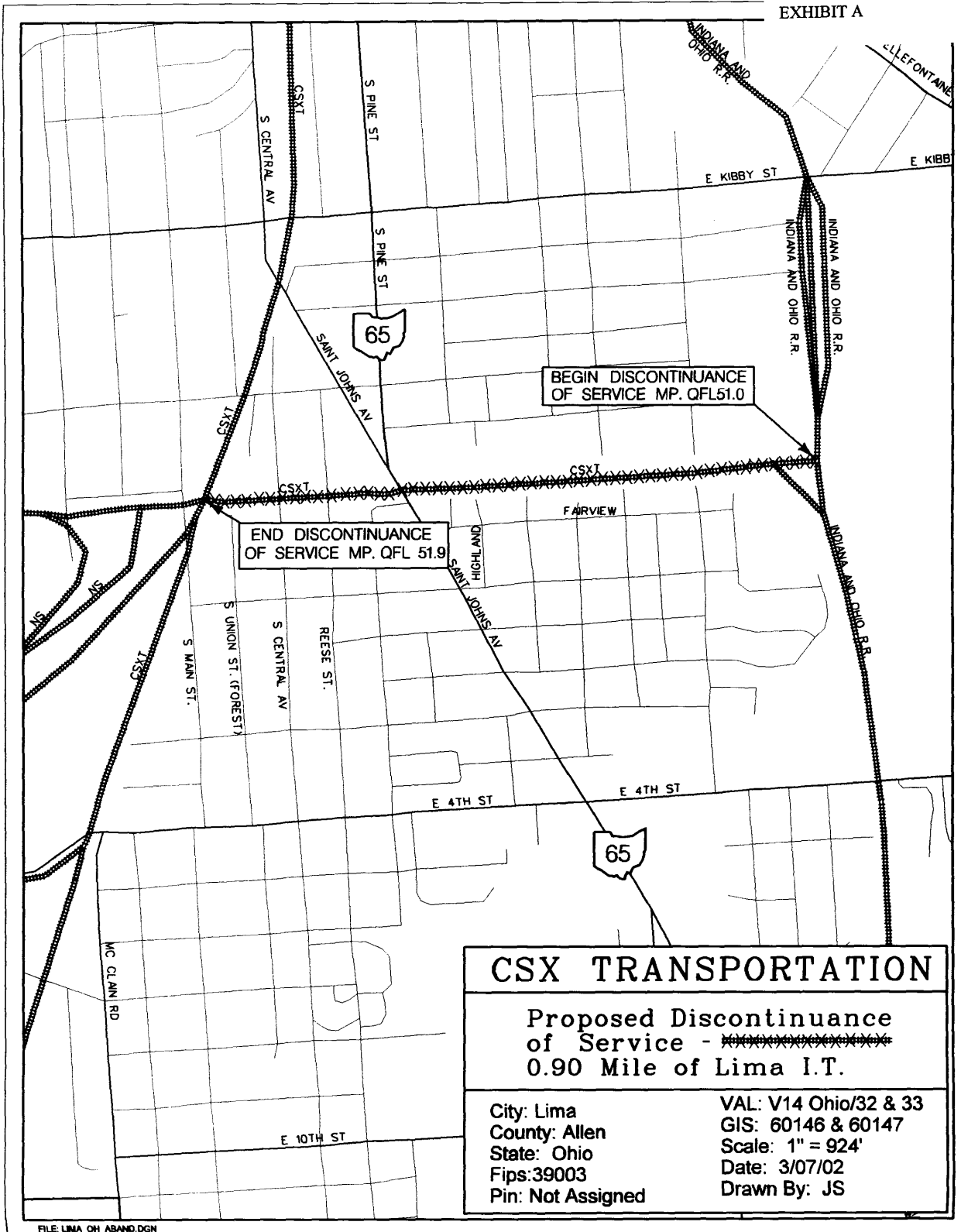
8. Verification.

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: April 12, 2002





AREA MAP

"Notice of Exemption for
Discontinuance of Service"
0.90 Miles of Lima I.T.
Allen County, Ohio

WESTERN REGION - DETROIT & GREAT LAKES DIVISION - FORT WAYNE SUBDIVISION

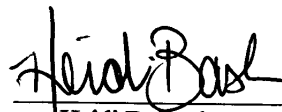
CERTIFICATION REQUIRED

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 Discontinuance of Service in Docket Nos. AB-565 (Sub-No. 9X) and AB-55 (Sub-No. 611X):

- (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; and
- (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 New York Central Lines, LLC and 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 D. Bash

Dated: 4-8-02

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 28, 2002, 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 Executive Office of Transportation and Construction, 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: April 12, 2002

ENVIRONMENTAL REPORT

**PROPOSED DISCONTINUANCE OF SERVICE
LIMA, ALLEN COUNTY, OHIO**

**NEW YORK CENTRAL LINES, LLC
DOCKET AB-565 (SUB-NO. 9X)**

and

**CSX TRANSPORTATION, INC.
DOCKET AB-55 (SUB-NO. 611X)**

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.

New York Central Lines, LLC ("NYC") and CSX Transportation, Inc. ("CSXT") propose to discontinue service over approximately 0.9 of a mile of their rail line in Lima, Allen County, Ohio. During the past two years, this segment of line did not generate any originating or terminating traffic, and none is expected in the future. Principal commodities transported over the line have been petroleum products.

NYC and CSXT only intend to discontinue service over the line. They do not intend to abandon the line, but rather intend to leave the line in place. The only alternative would be not to discontinue service and to pass the opportunity costs of retaining the line to all other NYC/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 NYC/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.**

On March 5, 2002, Applicants addressed the City of Lima Planning Commission and the Lima-Allen County Regional Planning Commission seeking information as to their land use plans. Applicants received responses dated March 28, 2002 from the City and March 29, 2002 from the County.
(See Attachments 3 and 4.)

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

Applicants have not received a response to their inquiry of March 5, 2002 to the U. S. Department of Agriculture, Natural Resources Conservation Service for Allen County, Ohio requesting information regarding this statement. (See Attachment 5.)

As Applicants only intend to discontinue service over the line, they feel that this action will have a negative effect on prime farmland.

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

On March 28, 2002, Applicant received electronic mail from the Ohio Department of Natural Resources, Division of Real Estate and Land Management, advising that *"The project is not located in the designated coastal zone area of Lake Erie (thus, no effects to Lake Erie coastal resources will occur)."* (See Attachment 6.)

- (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 line is not proposed to be abandoned; therefore, Applicants express no opinion as to the right of way's suitability for alternative public use under 49 U.S.C. 10906.

(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 adverse impact on public health and safety; in fact, as traffic over the line will cease, public health and safety will be improved by the inactivity of trains through two public grade 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.

Applicants 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 March 18, 2002, the U. S. Department of the Interior, Fish and Wildlife Service, Reynoldsburg, Ohio advised that *"The proposed project lies within the range of the Indiana bat, a Federally listed endangered species. Due to the project type and location, the project, as proposed, will have no effect on this species."* (See Attachment 7.)

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

Based upon Applicants' review of the area, the line is not within any wildlife sanctuaries or refuges, 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.**

Applicants have not received a response to their inquiry of March 5, 2002, to the State of Ohio's Environmental Protection Agency at Columbus, Ohio requesting information regarding this statement. (See Attachment 8.)

Based upon Applicants' intention to only discontinue service, it is Applicants' position that the proposed project will not be inconsistent with Federal, State and/or local water quality standards, and that no permits will be required.

- (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.**

In their letter of March 27, 2002, the U. S. Army Corps of Engineers at Buffalo, NY determined that *"...a Department of the Army permit is not required."* (See Attachment 9.)

- (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).

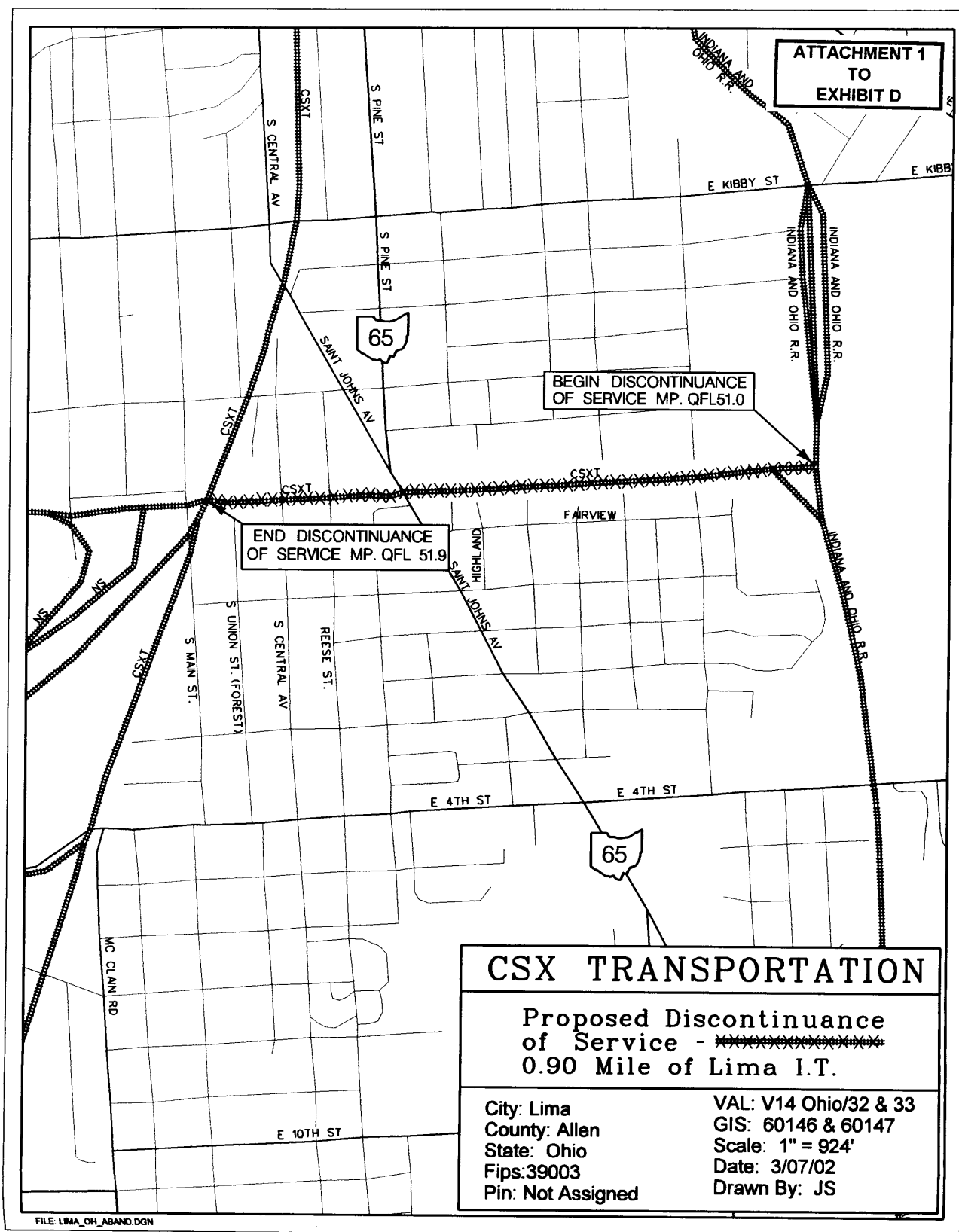
Applicants have not received responses to their inquiry of March 5, 2002, to the U. S. Environmental Protection Agency, Region 5, in Chicago, and the State of Ohio Environmental Protection Agency in Columbus requesting information regarding this statement. (See Attachment 8.)

However, based upon the course of action described in Section 9 (ii), Applicants do 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.

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





AREA MAP

"Notice of Exemption for
Discontinuance of Service"
0.90 Miles of Lima I.T.
Allen County, Ohio

WESTERN REGION - DETROIT & GREAT LAKES DIVISION - FORT WAYNE SUBDIVISION

RECEIVED
4-8-02

ATTACHMENT 3
TO
EXHIBIT D



CITY OF LIMA, OHIO

David J. Berger, Mayor

50 Town Square Lima, Ohio 45801-4900 419/228-5462 Fax 419/221-5214
www.cityhall.lima.oh.us

March 28, 2002

Ms. Nancy B. Reynolds, Manager Line Transactions
CSX Transportation
500 Water Street - J200
Jacksonville, FL 32202

RE: **PROPOSED DISCONTINUANCE OF SERVICE** - Lima Ohio (0.9 miles)

Dear Ms. Reynolds:

We are in receipt of your March 5, 2002 letter indicating CSXT is considering discontinuing use of a 0.9 mile segment of trackage in the City of Lima. We believe the proposal may be **inconsistent** with local land use plans and hereby place CSXT on notice that we object to any action which directly, or indirectly, limits or otherwise impedes the ability to restore regular traffic to this track segment in the future.

As you may be aware, local, state, and rail company officials are discussing a proposal to utilize this rail segment for all rail traffic currently being carried on the Indiana and Ohio Railroad through Lima. CSXT representatives (Steve Davis and Nick Zimmers) attended a January 11, 2001 meeting in Lima when a detailed presentation of this proposal was made to an array of economic development interests. The proposed re-routing of I&O traffic would minimize the capital costs for several critical grade separations, enhance the safety of rail operations, reduce the number of grade crossings, and generally enhance rail service through community.

While we acknowledge there are different perspectives on the desirability of our proposal, it represents the long planning position of the City of Lima and the area-wide transportation planning agency. To underscore our concerns, your letter was considered by the City Planning Commission at its meeting on March 27th and, by unanimous vote, reaffirmed its land use and transportation plan for this rail segment.

We look forward to discussing your proposal in greater detail and working toward a mutually beneficial resolution of any differences in our respective objectives. By separate letter we are sharing our concerns with the Surface Transportation Board.

Thank you for your consideration.

Sincerely,

Handwritten signature of David J. Berger.
David J. Berger, Mayor
CITY OF LIMA, OHIO

cc: STB Docket No. AB-55 (Sub No. 611X)
Lou Jannazo, ORDC
Judith Crawford, ODOD
Thomas Mazur, LACRPC





LIMA-ALLEN COUNTY REGIONAL PLANNING COMMISSION

130 West North Street Lima, Ohio 45801-4311
Telephone: 419-228-1836 FAX: 419-228-3891

W. Dan Reiff
President

John M. Howard
President-Elect

Charles L. Billings
Treasurer

Carole S. Grapner
Secretary

Thomas M. Mazur
Executive Director

March 29, 2002

Ms. Nancy B. Reynolds, Manager Line Transactions
CSX Transportation
500 Water Street - J200
Jacksonville, FL 32202

RE: **PROPOSED DISCONTINUANCE OF SERVICE**

Dear Ms. Reynolds:

Pursuant to your March 5, 2002 letter indicating CSXT wishes to discontinue use of a 0.9 mile segment of trackage in the City of Lima, please be advised that this agency finds the proposal inconsistent with local land use policies and plans. Documents prepared by the MPO have identified the segment as an important corridor necessary to better facilitate rail service in the region.

Recent discussions involving local and state officials (ODOT/ODOD/ORDC) as well as rail representatives have agreed on the need to ameliorate certain rail/roadway constraints and have initiated a productive process to further such concerns. As the MPO, this agency objects to the proposed action which is seen as an attempt to directly or indirectly circumvent the aforementioned process.

In closure, this office looks forward to discussing the implications of this proposal on our local plans in greater detail. We hope that working toward a mutually beneficial resolution to our existing rail/roadway constraints will further the goals of this community and CSXT. Should you have any questions or comments pertaining to the process or this note, please feel free to contact me at your earliest convenience.

Respectfully,

A handwritten signature in dark ink, appearing to read 'Thomas M. Mazur', is written over a faint, larger signature.

Thomas M. Mazur
Executive Director

TMM/bt





Nancy B. Reynolds
Manager Line Transactions
Asset Management

ATTACHMENT 5
TO
EXHIBIT D

500 Water
Jacksonv
Phone: (904) 359-1424
FAX: (904) 359-1111
E-Mail: Nancy_Reynolds@cax.com

March 5, 2002

Natural Resources Conservation Service
The Allen Soil & Water Conservation Dist.
3900 Campus Drive
Lima, OH 45804-3596

Gentlemen:

Please be advised that New York Central Lines, LLC ("NYC") and CSX Transportation, Inc. ("CSXT") are considering discontinuance of service over a portion of their rail line in Lima, Allen County, Ohio, as depicted on the attached map. NYC and CSXT will only discontinue service over the line. They do not intend to abandon the line, but rather leave the line in place.

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 Natural Resources Conservation Service,
state the effect of the proposed action on any prime agricultural land."

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

Sincerely,

Attachment

ATTACHMENT 6
TO
EXHIBIT D

From: Baker, Kim [Kim.Baker@dnr.state.oh.us]
Sent: Thursday, March 28, 2002 8:27 AM
To: Reynolds, Nancy
Subject: NY Central Lines Docket No. Ab-565 (Sub No. 9x) and CSX Docket No. AB-55 (Sub No. 611x)

Dear Ms. Reynolds:

The Ohio Department of Natural Resources (ODNR) has completed a review of the above referenced project. This email serves as official response from ODNR. These comments were generated by an inter-disciplinary review in consultation with the Division of Wildlife and other divisions within the Department. These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the National Environmental Policy Act and other applicable laws and regulations.

Provided the project is implemented as described in the project documentation, it should not result in significant adverse impacts to resources of concern to the Department. The project is not located in the designated coastal zone area of Lake Erie (thus, no effects to Lake Erie coastal resources will occur).

ODNR appreciates the opportunity to provide these comments. If you have any questions, please call me at 614/265-6411.

Kim

Kim Baker, Environmental Administrator
Ohio Department of Natural Resources
Division of Real Estate and Land Management
1952 Belcher Drive, Bldg. C-2
Columbus, OH 43224-1386
Phone 614/265-6411
FAX 614/267-2981
email: <mailto:kim.baker@dnr.state.oh.us>



United States Department of the Interior

FISH AND WILDLIFE SERVICE

RECEIVED
3-26-02

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

(614) 469-6923
Fax: (614) 469-6919

March 18, 2002

Ms. Nancy Reynolds
CSX Transportation
500 Water St., J200
Jacksonville, FL 32202

Dear Ms. Reynolds:

This is in response to your March 5, 2002 letter requesting information we may have regarding the occurrence or possible occurrence of Federally-listed threatened or endangered species within the vicinity of the proposed site. CSX Transportation proposes to discontinue service over a portion of their rail line in Lima, Allen County, Ohio. The line will not be abandoned, and no rail material will be removed. There are no Federal wilderness areas, wildlife refuges, or designated Critical Habitat within the vicinity of this project.

ENDANGERED SPECIES COMMENTS: The proposed project lies within the range of the Indiana bat, a Federally listed endangered species. Due to the project type and location, the project, as proposed, will have no effect on this species. This precludes the need for further action on this project as required by the 1973 Endangered Species Act, as amended. Should the project be modified or new information become available that indicates listed or proposed species may be affected, consultation should be initiated.

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, and 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 Megan Sullivan at extension 16 in this office.

Sincerely,


for Mary M. Knapp
Supervisor

cc: DOW, Wildlife Environmental Section, Columbus, OH



Nancy B. Reynolds
Manager Line Transactions
Asset Management

ATTACHMENT 8
TO
EXHIBIT D

500 Water
Jacksonville, FL 32202
Phone: (904) 359-1424
FAX: (904) 359-1111
E-Mail: Nancy_Reynolds@csx.com

March 5, 2002

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

Mr. Tom Harcarik
Ohio Dept. of Environmental Protection
Lazarus Government Center
P.O. Box 1048
Columbus, OH 43216-1049

Gentlemen:

Please be advised that New York Central Lines, LLC ("NYC") and CSX Transportation, Inc. ("CSXT") are considering discontinuance of service over a portion of their rail line in Lima, Allen County, Ohio, as depicted on the attached map. NYC and CSXT will only discontinue service over the line. They do not intend to abandon the line, but rather leave the line in place.

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

- (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."
- (iii) "State whether permits under Section 402 of the Clean Water Act 33 U.S.C. 1342 are required for the proposed action."

Since there will be no new construction or removal of rail material, and the underlying roadbed will not be disturbed, it is NYC's and CSXT's position that the proposed project will not negatively impact any Federal, State or local water quality standards and that no permits under Section 402 of the Clean Water Act (33 U.S.C. 1342) are required.

We would appreciate receiving your letter of concurrence; and, if you have any questions, please feel free to contact me.

Sincerely,

Attachment



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

ATTACHMENT 9
TO
EXHIBIT D

REPLY TO
ATTENTION OF:

March 27, 2002

Regulatory Branch

SUBJECT: Determination of No Jurisdiction for Application No.
2002-01143(0)

Ms. Nancy B. Reynolds
CSX Transportation, Inc.
500 Water Street - J200
Jacksonville, Florida 32202

Dear Ms. Reynolds:

This pertains to your proposal to discontinue service over 0.90 of a mile of railroad track in the vicinity of Lost Creek, in the City of Lima, Allen 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. However, the information which accompanied your application indicates that the proposed work will not involve a discharge of dredged or fill material into "Waters of the United States." Therefore, I have determined that we have no jurisdiction over the proposal and 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.

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.

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Regulatory Branch

SUBJECT: Determination of No Jurisdiction for Application No.
2002-01143(0)

Questions pertaining to this matter should be directed to me
at (716) 879-4327, by writing to the following address: U.S. Army
Corps of Engineers, 1776 Niagara Street, Buffalo, New York
14207, or by e-mail at: mark.w.scalabrino@usace.army.mil

Sincerely,



Mark W. Scalabrino
Biologist

Enclosures

HISTORIC REPORT

PROPOSED DISCONTINUANCE OF SERVICE LIMA, ALLEN COUNTY, OHIO

NEW YORK CENTRAL LINES, LLC
DOCKET AB-565 (SUB-NO. 9X)

AND

CSX TRANSPORTATION, INC.
DOCKET AB-55 (SUB-NO. 611X)

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.

New York Central Lines, LLC ("NYC") and CSX Transportation, Inc. ("CSXT") propose to discontinue service over approximately 0.9 of a mile of their rail line in Lima, Allen County, Ohio. During the past two years, this segment of the line did not generate any originating or terminating traffic, and none is expected in the future. Principal commodities transported over the line have been petroleum products.

NYC and CSXT only intend to discontinue service over the line. They do not intend to abandon the line, but rather intend to leave the line in place. The only alternative would be not to discontinue service and to pass the opportunity costs of retaining the line to all other NYC/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 1961 (Photorevised 1983) Lima 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 and white diagonal line. There are no NYC or CSXT-owned structures 50 years old or older on this line segment that are eligible for listing in the National Register. (See Attachment 3.)

- (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 widths along this line vary between 20 and 70 feet from the center line of track and is located within the city limits of Lima, Allen County, Ohio.

- (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:**

Not applicable.

- (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 property was acquired between 1881 and 1926 by the Chicago and Atlantic Railway Company, a predecessor of the Chicago and Erie Railroad Company. The Chicago and Erie Railroad Company was a subsidiary of the New York, Lake Erie and Western Railroad and remained a subsidiary of its successor, the Erie Railroad Company, after their 1895 reorganization. The Chicago and Erie Railroad Company was incorporated into the Erie Railroad Company in 1941, and the corporation was dissolved on May 12, 1948. In 1960, the Erie Railroad Company merged with the Delaware, Lackawanna and Western Railroad to form the Erie-Lackawanna Railroad Company. In 1976, the U. S. Government created Conrail from the Erie-Lackawanna and five other bankrupt eastern railroads.

CSX Transportation, Inc. and Norfolk Southern Railway acquired Conrail in 1999.

Applicants only intend to discontinue service over the line. They do not intend to abandon the line, but rather intend to leave the line in place.

- (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.

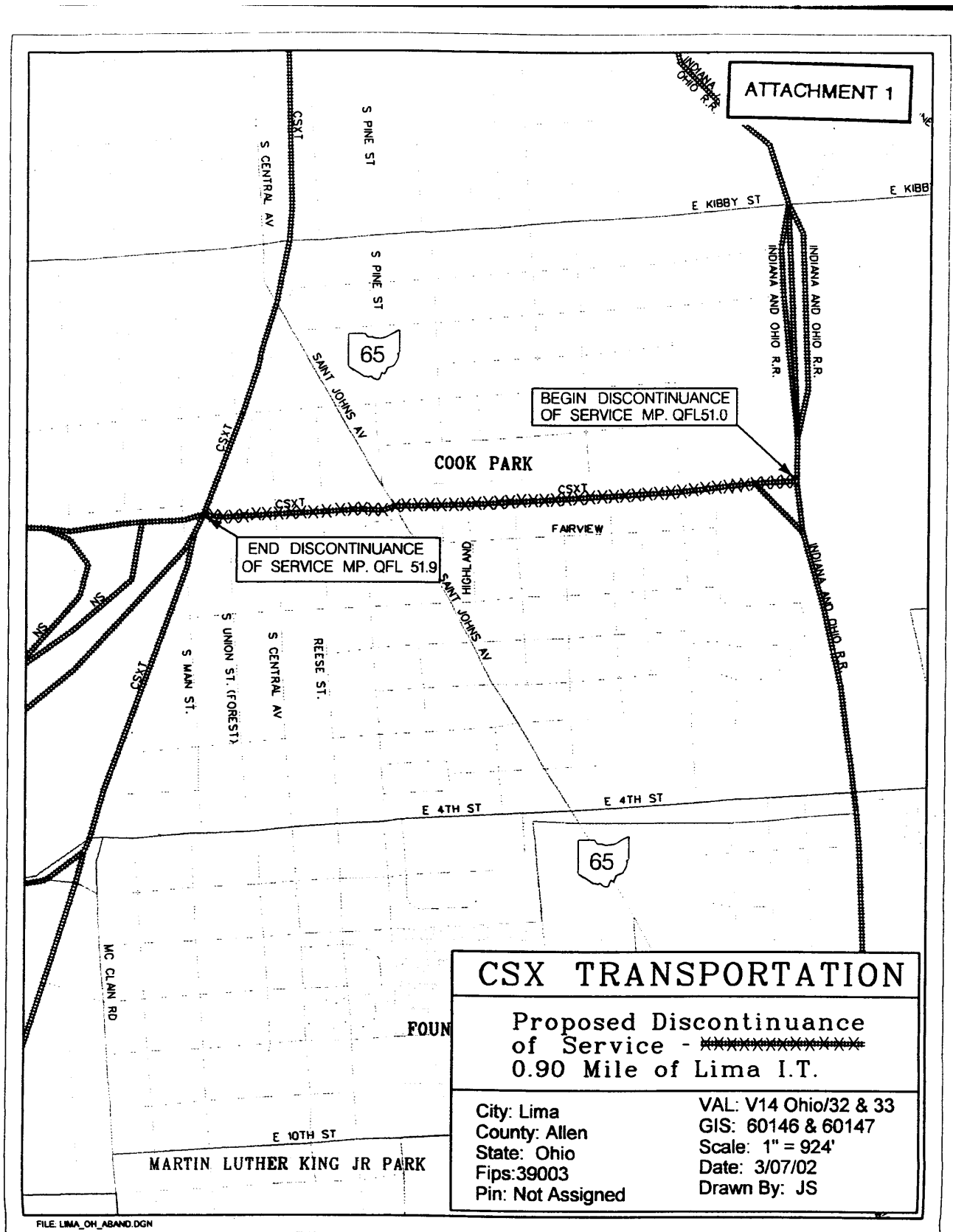
- (7) **An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. 60.4), and whether there is a likelihood of archeological resources or any other previously 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 NYC or 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. Our records do not indicate that any swampy conditions exist, or that any hazardous material spills have occurred within the project area.





AREA MAP

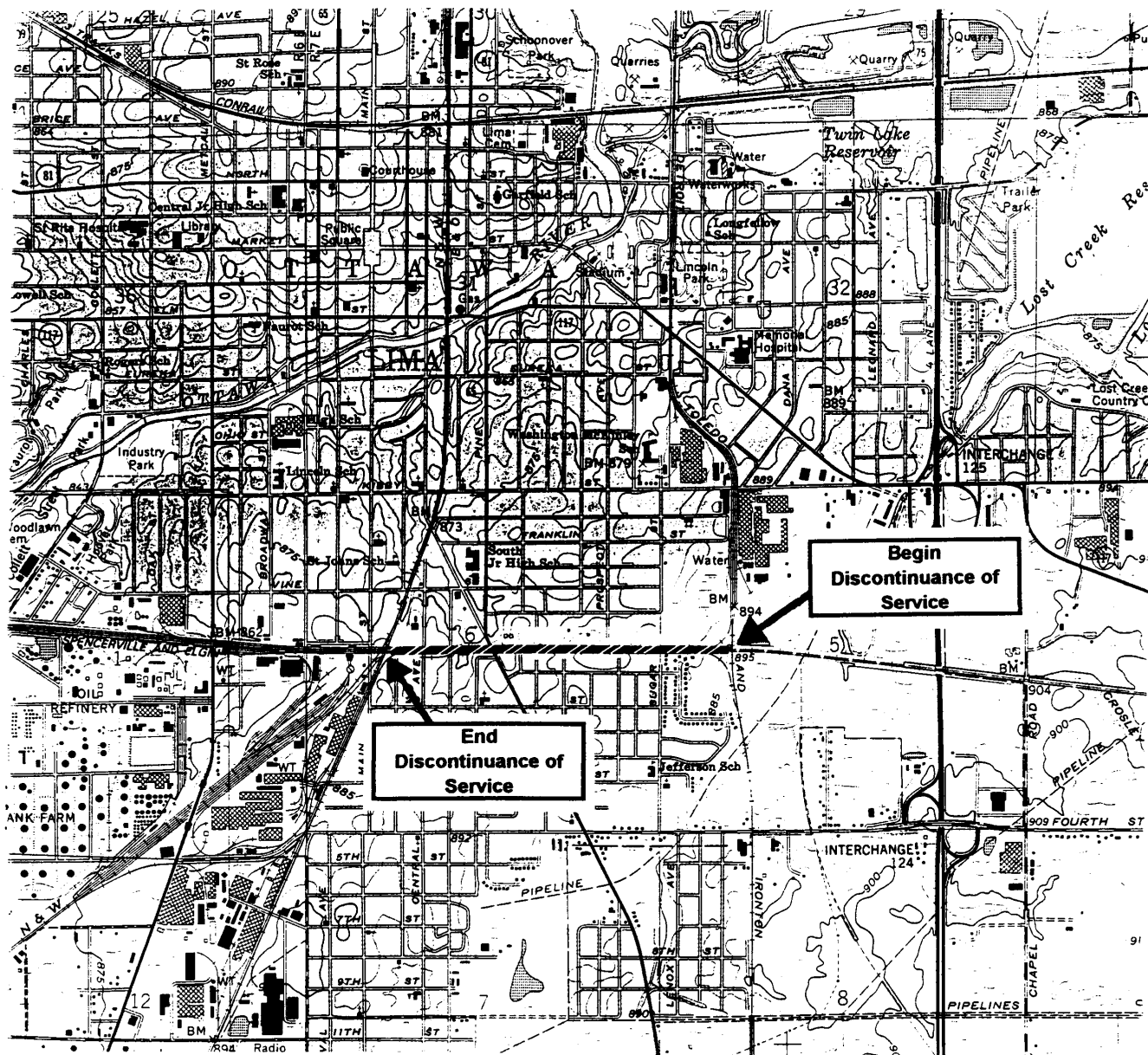
"Notice of Exemption for
Discontinuance of Service"
0.90 Miles of Lima I.T.
Allen County, Ohio

WESTERN REGION - DETROIT & GREAT LAKES DIVISION - FORT WAYNE SUBDIVISION

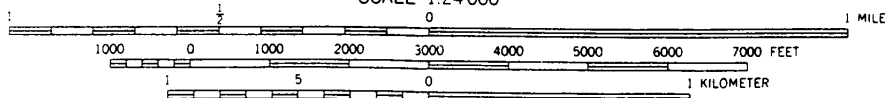
ATTACHMENT 3

U. S. DEPT. OF THE INTERIOR
QUADRANGLE GEOLOGICAL SURVEY

LIMA QUADRANGLE
Ohio - Allen Co.
1961 - Photorevised 1983
Page 1 of 1



SCALE 1:24 000



CONTOUR INTERVAL 5 FEET
NATIONAL GEODETIC VERTICAL DATUM OF 1929

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 March 22, 2002, a copy of the Environmental Report was served upon the below listed parties, by first-class mail, postage prepaid:

City of Lima Planning Commission
Department of Community Development
Lima Municipal Center
50 Town Square
Lima, OH 45801

Allen County Regional Planning Commission
Allen County Courthouse
301 North Main Street
P.O. Box 1243
Lima, OH 45802-1243

Natural Resources Conservation Service
The Allen Soil & Conservation District
3900 Campus Drive
Lima, OH 45804-3596

Mr. Kent Kroonemeyer, Supervisor
U.S. Department of the Interior
Fish & Wildlife Service
6950-H Americana Parkway-Suite H
Reynoldsburg, OH 43068-4132

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

Ms. Kim Baker, Environmental Administrator
Ohio Coastal Management Program
Ohio Dept. of Natural Resources
Office of Real Estate & Land Management
1952 Belcher Drive - Building C-2
Columbus, OH 43224

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

Mr. Tom Harcarik
Environmental Protection Agency
Lazarus Government Center
P.O. Box 1049
Columbus, OH 43216-1049

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

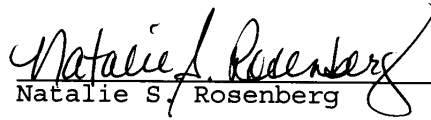
Mr. Edward J. McKay
Chief Spatial Reference System Division
DOC/NOAA
National Geodetic Survey N/NGS2
1315 East West Highway, Room 8813
Silver Spring, MD 20910-3282

Mr. Thomas A. Mazur, Executive Director
Lima-Allen County Regional Planning Commission
Ohio Clearinghouse for Allen County
221 North Main Street, 2nd Floor
Lima, OH 45081-4432

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

In accordance with 49 C.F.R. 1105.8(c), I hereby certify that on March 22, 2002, a copy of the Historic Report was served upon the below listed party, by first-class mail, postage prepaid:

Mr. Amos Loveday
State Historic Preservation Officer
The Ohio Historical Society
567 East Hudson Street
Columbus, OH 43211-1030


Natalie S. Rosenberg

Dated: April 12, 2002

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-565 (Sub-No. 9X) and Docket No. AB-55 (Sub-No. 611X) on behalf of New York Central Lines, LLC and 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.

B.J. League
B.J. LEAGUE

Subscribed and sworn to
before me, a Notary Public
in and for the State and
County above named, this
12th day of APRIL, 2002.

Barbara L. Jernigan
Notary Public

