

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 55 (Sub-No. 803X)

**CSX Transportation, Inc. – Abandonment Exemption –
in Boone County, W.Va.**

BACKGROUND

In this proceeding, CSX Transportation, Inc. (CSXT) filed a petition under 49 U.S.C. § 10502 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Boone County, West Virginia. The rail line proposed for abandonment extends approximately 9.9 miles from milepost CLN 0.3 to milepost CLN 10.2 (the Line). Maps depicting the Line in relationship to the area served is appended to this Draft Environmental Assessment (Draft EA). If the Board grants the exemption, the railroad would be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

The Line is in a largely rural area of southwest West Virginia. It passes through a few small communities and closely parallels Laurel Creek. The width of the Line's right-of-way is generally 90 feet. According to CSXT, the Line was built by the Chesapeake and Ohio Railway Company (C&O) to serve a former coal mine. C&O merged into CSXT on September 2, 1987. There are three bridges on the Line that are 50 years of age or older: a through-plate girder bridge built in 1913 over Laurel Creek, a deck-beam through-plate girder bridge built in 1913 over Hopkins Fork, and laced-timber bridge built in 1950 over Lavina Fork.

ENVIRONMENTAL REVIEW

CSXT submitted a combined environmental and historic report (E&H Report) that concludes the quality of the human environment would not be affected significantly because of the proposed abandonment of the Line, including salvage. CSXT served the E&H Report on 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 implementing the National Environmental

¹ The E&H Report is available for viewing on the Board's website at <https://prod.stb.gov> by clicking "Search STB Records;" selecting "Filings" in the "Search for" dropdown menu; entering "AB" "55" "803" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The E&H Report was filed on February 25, 2021.

Policy Act. The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to CSXT, local rail traffic has not moved on the Line for the past two years and any overhead traffic has been rerouted. Therefore, the proposed abandonment would not result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network. Nor would the proposed abandonment adversely impact the development, use and transportation of energy resources or recyclable commodities or the transportation of ozone-depleting materials.

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. Should the Board authorize the proposed abandonment, CSXT intends to salvage the Line's rails, rail ties and possibly the upper layer of ballast but does not intend to disturb any subgrade or subgrade structures. Bridges, trestles, culverts, and tunnels would remain in place. Salvage activities would be accomplished through existing right-of-way and access roads, and tree removal is not anticipated. CSXT would transport crossties and/or other debris away from the Line and would not discard them along the right-of-way or place or leave them in streams or wetlands, or along the banks of such waterways. During salvage, CSXT would also implement appropriate spill prevention and control measures.

Regarding the potential impact of the proposed abandonment to protected wildlife, including federally listed threatened and endangered species under the Endangered Species Act (16 U.S.C. § 1531 *et seq.*), CSXT submitted the E&H Report to the U.S. Fish and Wildlife Service, West Virginia Ecological Service Field Office (USFWS) for review. To identify protected species in the project area, CSXT conducted a search of the USFWS Information for Planning and Consultation (IPaC) system² and submitted those results to USFWS. In replies dated February 1, 2021 (USFWS Consultation Code: 05E2WV00-2021-SLI-0288), USFWS stated that there is no critical habitat within the area of the proposed abandonment.

Although there is no critical habitat, CSXT's IPaC search identified six threatened or endangered species that may occur in the project area. The six species include three bats (gray bat [*Myotis grisescens*], northern long-eared bat [*Myotis septentrionalis*], and Indiana bat [*Myotis sodalis*]) and three clams (fanshell [*Cyprogenia stegaria*], pink mucket [*Lampsilis abrupta*], and sheepnose mussel [*Plethobasus cyphus*]). Regarding the northern long-eared bat, USFWS noted that the proposed abandonment may affect the species; however, any take that may occur

² U.S. Fish and Wildlife Service, Information for Planning and Consultation (IPaC), <https://ecos.fws.gov/ipac/location/index>.

as a result of salvage activities is not prohibited under the Endangered Species Act, Section 4(d) rule adopted for this species at 50 C.F.R. § 17.40(o).

With respect to the remaining five species, OEA has determined that these federally listed threatened or endangered species would not be affected because of the limited scope of proposed salvage activities. OEA concludes that the two remaining bat species would not be affected because CSXT anticipates that salvage activities would not entail tree removal, and salvage activities would be confined to existing right-of-way and access roads. OEA concludes that the three clam species would not be affected because CSXT would not remove any bridges or culverts or conduct any work in waterways. Furthermore, CSXT would limit surface work to the removal of the upper layer of ballast; and therefore, would avoid soil disturbance and the opportunity for erosion and sedimentation that could adversely affect downstream water quality. OEA is providing a copy of this Draft EA to USFWS for its review.

The West Virginia Division of Natural Resources, Wildlife Resources Section (WVWRS) responded to the E&R Report by letter dated February 22, 2021. WVWRS states that the Line falls within the summer habitat buffer for the endangered Indiana bat and that coordination with USFWS would be necessary, especially if any tree removal is anticipated. As noted above, coordination with USFWS is ongoing, and OEA has concluded that the proposed abandonment would not affect the Indiana bat. Therefore, no additional coordination is necessary.

CSXT requested comments from the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) regarding potential impacts to prime farmland and prime farmland soils. By letter dated February 8, 2021, the NRCS - State Conservationist concluded that the proposed abandonment would have no effect on surrounding prime and locally important farmland.

CSXT also submitted the E&H Report to the U.S. Army Corps of Engineers, Huntington District (USACE) for comments on potential permitting requirements under Section 404 of the Clean Water Act (33 U.S.C. § 1344). To date, a response from USACE has not been received. OEA does not anticipate that any salvage would occur within streams, wetlands or other waters of the United States that are regulated by USACE under Section 404. OEA is providing a copy of this Draft EA to USACE for review.

The U.S. Environmental Protection Agency, Region 3 (USEPA) and West Virginia Department of Environmental Protection (WVDEP) have not responded to CSXT's request for comments. Because of the limited scope of CSXT's proposed salvage activities, OEA believes that compliance with applicable water quality standards would be maintained and a permit under Section 402 of the Clean Water Act (33 U.S.C. § 1342) would not be required. OEA is also providing a copy of this Draft EA to USEPA and WVDEP for review.

The National Geodetic Survey (NGS) indicated there are no geodetic survey markers present in the Line's right-of-way that could be disturbed by the proposed abandonment.

CSXT considers the proposed abandonment to be consistent with existing land use plans. A copy of the Preliminary E&H Report was sent to Boone County and appropriate local and state agencies for their information and further comment. No comments have been received to date.

Based on all the information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this Draft EA to the following agencies for review and comment:

- U.S. Fish and Wildlife Service, West Virginia Ecological Services Field Office, Elkins, West Virginia;
- U.S. Army Corps of Engineers, Huntington District, Huntington, West Virginia;
- U.S. Environmental Protection Agency, Region 3, Philadelphia, Pennsylvania; and
- West Virginia Department of Environmental Protection, Charleston, West Virginia.

HISTORIC REVIEW

CSXT served the E&H Report on the West Virginia Department of Arts, Culture and History (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c).³ As part of its public outreach, CSXT also placed a notice of the proposed abandonment in Coal Valley News on February 24, 2021 and notified local governments of the proposed abandonment. In a February 18, 2021 letter to CSXT, the SHPO stated that the proposed abandonment would not affect architectural properties eligible for or included in the National Register of Historic Places (NRHP). The SHPO added that the three bridges that are 50 years of age or older show no distinctive characteristics that indicate NRHP eligibility.

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, OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the NRHP. 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 Draft EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at www.prod.stb.gov.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development's Tribal Directory Assessment Tool to identify federally

³ 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. 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 at a link on the bottom of the Board's website overseeing historic preservation at <https://prod.stb.gov/resources/environmental/historic-preservation-overview>.

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:

- Eastern Band of Cherokee Indians; and
- Eastern Shawnee Tribe of Oklahoma.

OEA is sending a copy of this Draft EA to these Tribes for review and comment.

CONDITIONS

OEA recommends no environmental condition 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 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 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 Board's Federal Register notice of the proposed abandonment. The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁵

⁴ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed March 9, 2021).

⁵ Board decisions are available for viewing on the Board's website at <https://prod.stb.gov> by clicking "Search STB Records," selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "55" "803" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

TRAIL 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 notice of the petition for 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). The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁶

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

As of March 17, 2020, all filings and other submissions should be submitted electronically through the Board's website at <https://prod.stb.gov>. To submit a comment on the Draft EA, select "File an Environmental Comment" under "Need Assistance?" on the Board's home page. Brief comments can be typed in the comment field provided, and lengthier comments can be attached as Word, Adobe Acrobat, or other file formats. If you have any questions, please contact Dave Navecky by email at david.navecky@stb.gov or by phone at 202-245-0294.

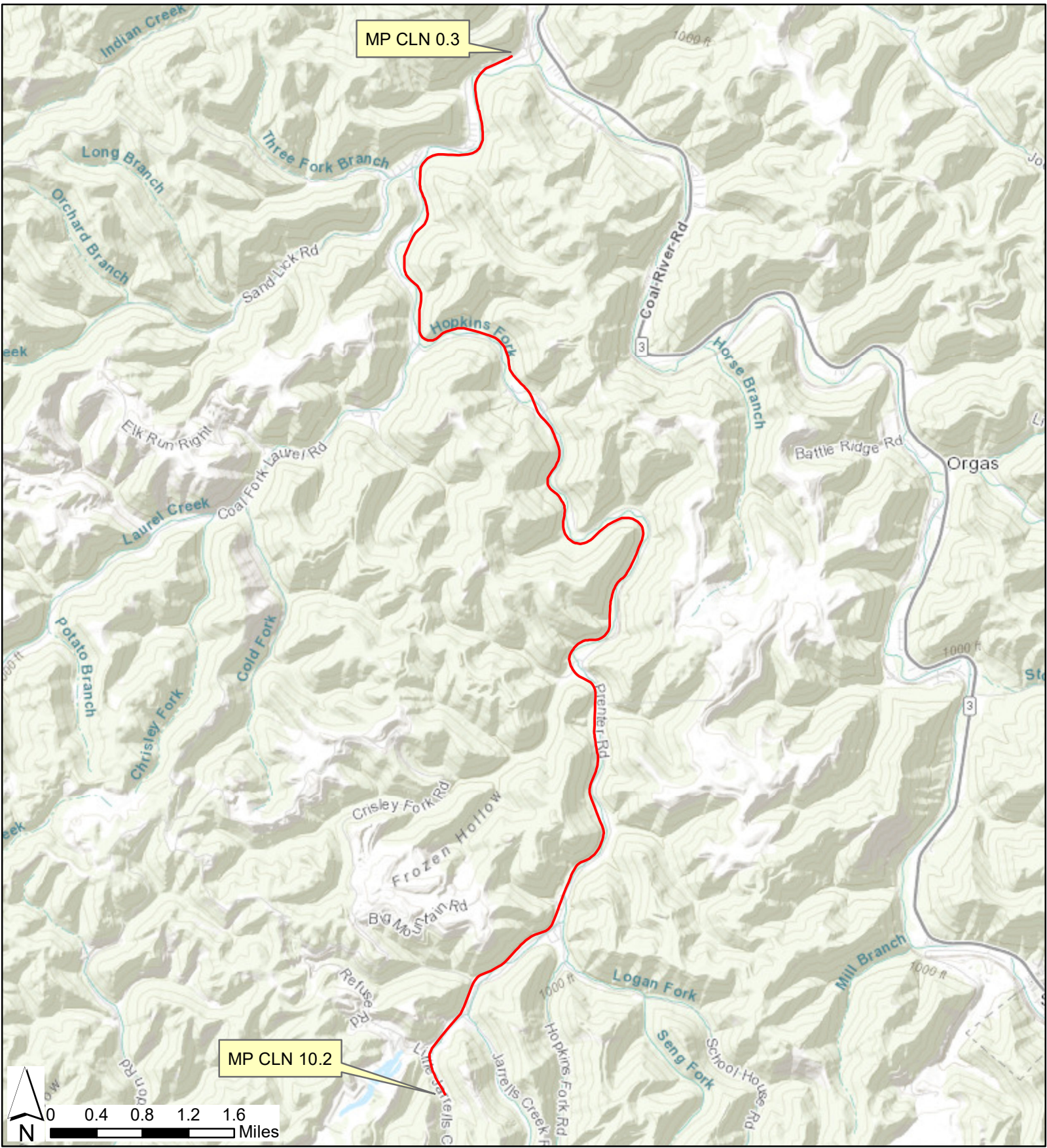
Date made available to the public: March 22, 2021.

Comment due date: April 5, 2021.

By the Board, Danielle Gosselin, Acting Director, Office of Environmental Analysis.

Attachments

⁶ Id.



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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.



