

LAW OFFICES OF
LOUIS E. GITOMER, LLC

LOUIS E. GITOMER
Lou@lgraillaw.com

MELANIE B. YASBIN
Melanie@lgraillaw.com
410-296-2205

600 BALTIMORE AVENUE, SUITE 301
TOWSON, MARYLAND 21204-4022
(410) 296-2250 • (202) 466-6532
FAX (410) 332-0885

242126

November 28, 2016

Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings
November 28, 2016
Part of
Public Record

Re: **Docket No. AB-55 (Sub-No. 767X), CSX Transportation, Inc.—**
Discontinuance of Service Exemption—Perry County, KY

Dear Ms. Brown,

Enclosed are the original and 10 copies of a Verified Notice of Exemption for CSX Transportation, Inc. ("CSXT") to discontinue service over an approximately 3.3-mile rail line on its Northern Region, Louisville Division, EK Subdivision, from milepost 0WV 242.0 to milepost 0WV 245.3, in Hazard, Perry County, KY. Also enclosed are a check for the filing fee of \$4,000 and a CD containing the Notice in WORD and pdf format.

Please time and date stamp the additional copy of this letter and return it in the self-addressed prepaid envelope.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely yours,



Melanie B. Yasbin
Attorney for CSX Transportation, Inc.

Enclosure

FEE RECEIVED
November 28, 2016
SURFACE
TRANSPORTATION BOARD

FILED
November 28, 2016
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-55 (Sub-No. 767X)

CSX TRANSPORTATION, INC.–DISCONTINUANCE OF SERVICE EXEMPTION–
IN PERRY COUNTY, KY

VERIFIED NOTICE OF EXEMPTION

Steven C. Armbrust, Esq.
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202
(904) 359-1229

Louis E. Gitomer, Esq.
Melanie B. Yasbin, Esq.
Law Offices of Louis E. Gitomer, LLC
600 Baltimore Avenue, Suite 301
Towson, MD 21204
(410) 296-2250
Lou@lgrailaw.com

Attorneys for: CSX TRANSPORTATION,
INC.

Dated: November 28, 2016

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-55 (Sub-No. 767X)

CSX TRANSPORTATION, INC.– DISCONTINUANCE OF SERVICE EXEMPTION–
IN PERRY COUNTY, KY

VERIFIED NOTICE OF EXEMPTION

CSX Transportation, Inc. (“CSXT”) files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 for CSXT to discontinue service over an approximately 3.3-mile rail line on its Northern Region, Louisville Division, EK Subdivision, from milepost 0WV 242.0 to milepost 0WV 245.3, in Hazard, Perry County, KY (the “Line”). No local rail traffic has moved over the Line during the past two years. Any overhead traffic on the Line can be and has been rerouted.

Based on information in the possession of CSXT, the Line does not contain federally granted rights-of-way. Any documentation in the railroad’s possession will be made available promptly to those requesting it.

1. Proposed consummation date. The proposed consummation date is January 16, 2017.
2. Certification required by 49 C.F.R. § 1152.50(b). *See* Exhibit A.
3. Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7), and (8), and (e)(4).

(a) General.

(1) Exact name of applicant. CSX Transportation, Inc.

(2) Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105. CSXT is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(3) Relief sought. CSXT seeks to use the class exemption at 49 C.F.R. § 1152.50 to discontinue service over a 3.3-mile rail line on its Northern Region, Louisville Division, EK Subdivision, also known as the Lotts Creek Branch and Danger Fork Branch, from milepost 0WV 242.0 to milepost 0WV 245.3, in Hazard, Perry County, KY. There is one station on the Line, Sigmon at milepost 0VD 245 (FSAC 42845/OPSL 17202). The station can be closed.

(4) Map. *See* Exhibit B.

(7) Name, title, and address of representative of applicant to whom correspondence should be sent. Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (410) 296-2250, Lou@lgrailaw.com.

(8) List of all United States Postal Service ZIP Codes that the line proposed for discontinuance traverses. The Line traverses U.S. Postal ZIP Codes 41701 and 41722.

(e) Rural and community impact.

(4) Statement of whether the properties proposed to be discontinued are appropriate for use for other public purposes, including roads and 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.

CSXT is discontinuing service over the Line because no traffic has moved over the Line in more than two years. CSXT will close the road crossings and remove the signals but leave the infrastructure in place to preserve the corridor in case of future traffic. Since service on the Line is being discontinued and not abandoned and CSXT is retaining the Line for future reactivation if demand for rail service resumes, the Line is not available for public use purposes. *See, Central Illinois Railroad Company—Discontinuance of Service Exemption—in Cook County, Ill.*, Docket No. AB 1066 (Sub-No. 2X) slip op. at 3 (STB served November 16, 2010).

4. The level of labor protection. The interests of any railroad employees who may be adversely affected by the proposed discontinuance of service will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co. –Abandonment–Goshen*, 360 I.C.C. 91 (1979).

5. Certification. Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) and 1105.11 are attached as Exhibit C.

6. Environmental Report. CSXT is not salvaging the track and materials on the Line. Because the Line has not been used in several years, there will be no diversion of traffic from rail to truck. Therefore, CSXT does not have to prepare or file an Environmental Report. 49 C.F.R. §1105.6(c)(2).

7. Historic Report. CSXT is discontinuing service over the Line. It is not salvaging the track and materials on the Line. There will be no impact on historic properties. Therefore, CSXT does not have to prepare or file a Historic Report. 49 C.F.R. §1105.8(a).

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Louis E. Gitomer".

Steven C. Armbrust, Esq.
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202
(904) 359-1229

Louis E. Gitomer, Esq.
Melanie B. Yasbin, Esq.
Law Offices of Louis E. Gitomer
600 Baltimore Avenue, Suite 301
Towson, MD 21204
(410) 296-2250
Lou@lgraillaw.com

Attorneys for: CSX TRANSPORTATION,
INC.

Dated: November 28, 2016

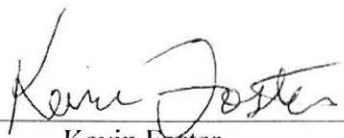
EXHIBIT A-VERIFICATION AND CERTIFICATION

**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

STATE OF FLORIDA)
) ss.
COUNTY OF DUVAL)

I, Kevin Foster, state that I am Analyst of Commercial Finance for CSX Transportation, Inc. ("CSXT"); that I am authorized to make this verification; and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated, to the best of my knowledge, information, and belief.

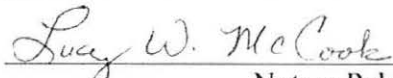
I hereby certify that no local freight traffic has moved over CSXT's 3.3 mile rail line on its Northern Region, Louisville Division, EK Subdivision, Lotts Creek Branch and Danger Fork Branch from Railroad Mile 0WV 242.0 to 0VD 245.3 for two years prior to the date hereof. Since this is not a through line, no overhead traffic has operated; therefore, none needs to be rerouted over other lines. Further, no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period. The foregoing certification is made on behalf of CSXT by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned.



Kevin Foster

SUBSCRIBED AND SWORN TO before me this 3rd day of November 2016.

My Commission Expires: July 24, 2020



Notary Public

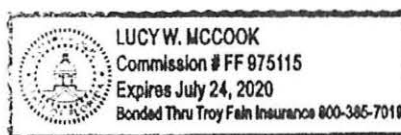
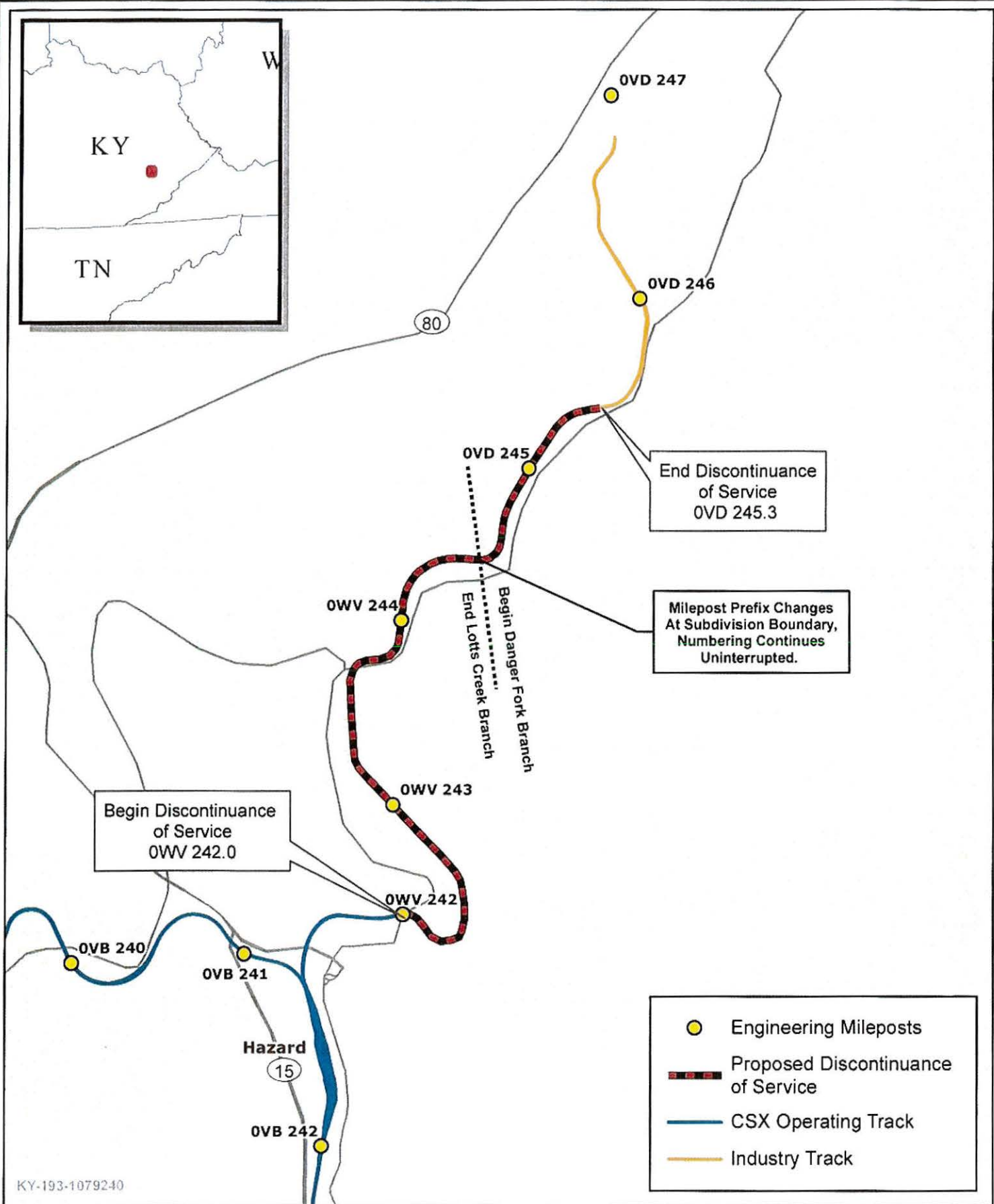
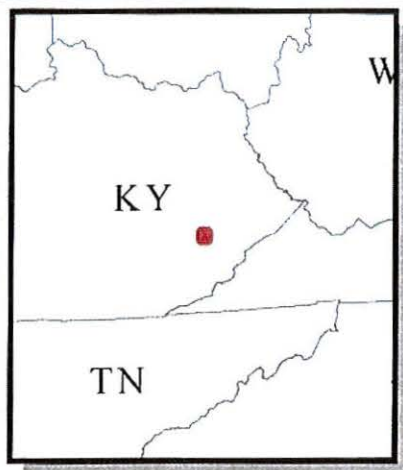


EXHIBIT B-MAP



KY-193-1079240



CSX Real Property, Inc.

CSX Transportation, Inc.
Proposed Discontinuance of Service
Northern Region, Louisville Division, EK Subdivision
Lotts Creek Branch & Danger Fork Branch

Milepost OWV 242.0 - OVD 245.3 (3.3 Miles)
Perry County - Hazard, KY
STB Docket No. AB 55 (Sub-No. 767X)

0 1,500 3,000

Feet



EXHIBIT C-CERTIFICATES OF SERVICE AND PUBLICATION

Pursuant to 49 C.F.R. § 1152.50 (d) (1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-55 (Sub-No. 767X) was mailed via first class mail on November 16, 2016, to the following parties:

State Public Service Commission

Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40602-0615

Military Traffic Management Command

Headquarters
Military Surface Deployment and Distribution Command
Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National Defense)
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

National Park Service

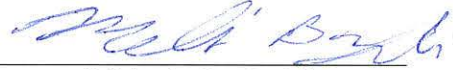
Mr. Rick Potts
Chief, Conservation and Outdoor Recreation Division
Rivers, Trails and Conservation Assistance Program National Park Service
1849 C Street, N.W. (Org Code 2220)
Washington, DC 20240

National Park Service

U.S. Department of Interior
National Park Service
Land Resources Division
1849 C Street, N.W.
Washington, DC 20240

U.S. Department of Agriculture

U.S. Department of Agriculture
Chief of the Forest Service
1400 Independence Avenue, S.W.
Washington, DC 20250-0003



Melanie B. Yasbin

November 28, 2016

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-55 (Sub-No. 767X) in the following form was advertised on November 9, 2016 in the Coal Valley News, a newspaper of general circulation in Boone County, as required by 49 C.F.R. § 1105.7(c) and .12.



Melanie B. Yasbin

November 28, 2016

Notice of Intent To Discontinue Service

CSX Transportation, Inc. ("CSXT") gives notice that on or about November 14, 2016, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting the discontinuance of service over an 3.3-mile rail line on its Northern Region, Louisville Division, EK Subdivision, also known as the Lotts Creek Branch and Danger Fork Branch, from milepost 0WV 242.0 to milepost 0WV 245.3, which traverses through United States Postal Service ZIP Codes 41701 and 41722, in Hazard, Perry County, KY. The proceeding will be docketed as No. AB-55 (Sub-No. 767X).

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the OEA, Surface Transportation Board, Washington, DC 20423 or by calling that office at (202) 245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as offers of financial assistance) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, SW, Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative: Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (410)296-2250, Lou@lgrailaw.com.

**EXHIBIT D– ENVIRONMENTAL REPORT
NONE REQUIRED**

**EXHIBIT E– HISTORIC REPORT
NONE REQUIRED**