

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

AB 290 (Sub-No. 411X)

**Norfolk Southern Railway Company – Abandonment Exemption –
in the City of Evansville, Ind.**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in the City of Evansville (Evansville), Vanderburgh County, Indiana. The rail line proposed for abandonment extends approximately 0.24 miles from milepost Milepost +/- 0.00 EB to Milepost +/- 0.24 EB in Evansville (the Line). A map depicting the Line in relationship to the area served is appended to this Draft Environmental Assessment (Draft 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.

DESCRIPTION OF THE LINE

The Line traverses an urban area near downtown Evansville that is dominated by commercial and industrial buildings and transportation infrastructure. It begins east of N. Gavin Street and the crossing of the CSX Transportation, Inc. rail line and extends westward to the eastern side of N. Heidelberg Avenue. The rail right-of-way ranges from 20 feet to 135 feet wide. There are no bridges or other structures on the Line. According to NSR, the Line was originally constructed as part of the Lake Erie, Evansville & South Western Railway in approximately 1873 and in 1944 came under the ownership of Southern Railway Company, which became NSR in 1982 following its merger with Norfolk and Western Railway. NSR has not served any customers on the Line for more than six years.

ENVIRONMENTAL REVIEW

NSR submitted a combined environmental and historic report (E&H Report) that concludes the quality of the human environment would not be affected significantly as a result of the proposed abandonment of the Line, including salvage. NSR served the E&H 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 implementing the National Environmental Policy Act. The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to NSR, no local traffic has moved over the Line for more than six years, and overhead traffic on the Line 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. In this proceeding, NSR intends to salvage rail and related track material from the Line. These materials would be reused or sold as scrap. Following the removal of rail and track material, NSR's contractor would smooth the roadbed to a level surface. NSR does not intend to remove any ballast, disturb any soil, or alter the underlying roadbed.

Land Use

NSR provided the E&H Report to Evansville and Vanderburgh County and requested comments on the consistency of the proposed abandonment with existing land use plans. To date, Vanderburgh County has not provided comments. Evansville commented that the proposed abandonment could impact a street paving project scheduled for the end of 2022. NSR states that NSR would coordinate salvage activities with Evansville to mitigate any negative impact. Accordingly, OEA is recommending mitigation requiring NSR to consult with Evansville prior to undertaking abandonment-related salvage activities to ensure that any potential work conflicts would be avoided.

NSR requested comments from the Natural Resources Conservation Service (NRCS) regarding the potential impact of the proposed abandonment on agricultural land. In response, NRCS commented that the proposed abandonment would not result in the conversion of prime farmland. Because salvage activities would take place within an existing rail right-of-way in an

¹ The E&H Report is available for viewing on the Board's website at www.stb.gov by clicking "Search STB Records;" selecting "Filings" in the "Search for" dropdown menu; entering "AB" "290" "411" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The E&H Report was filed on September 29, 2022.

urban area, OEA concludes that the proposed abandonment would not affect agricultural land and is not recommending any mitigation related to agricultural land.

Based on NSR's E&H Report and OEA's review of available information, the Line does not pass through and is not immediately adjacent to any state parks or forests, national parks or forests, or wildlife sanctuaries. Accordingly, no mitigation related to protected areas is warranted or recommended.

Hazardous Materials

NSR states that NSR has no knowledge of any hazardous waste sites or sites where there have been hazardous material spills within or adjacent to the rail right-of-way. OEA's review has confirmed that there are no federally listed remediation sites in the immediate vicinity of the Line.² Accordingly, no mitigation related to hazardous waste sites or hazardous material spills is recommended.

Biological Resources

To identify federally listed threatened and endangered species that could be present near the project area, OEA conducted a search of the U.S. Fish and Wildlife Service's (USFWS) Information for Planning and Consultation (IPaC) system.³ The table below shows the federally listed endangered and threatened species known or thought to occur in the vicinity of the Line, as identified by OEA's search and further research. OEA notes that the Line does not cross critical habitat for any federally listed threatened or endangered species.

Federally Listed Species in Project Area	
Mammals	Status
Indiana Bat (<i>Myotis sodalis</i>)	Endangered
Northern Long-eared Bat (<i>Myotis septentrionalis</i>)	Threatened
Clams	
Pink Mucket (Pearlymussel) (<i>Lampsilis abrupta</i>)	Endangered
Insects	
Monarch Butterfly (<i>Danaus plexippus</i>)	Candidate

NSR requested comments from USFWS regarding the potential impact of the proposed abandonment on protected species. USFWS commented that USFWS has no objections to the project as currently proposed. Because salvage activities would take place within an existing rail

² Environmental Protection Agency, NEPAassist, <https://www.epa.gov/nepa/nepassist> (last visited October 18, 2022).

³ U.S. Fish and Wildlife Service, Information for Planning and Consultation System, <https://ecos.fws.gov/ipac/> (last accessed October 18, 2022).

right-of-way in an urban area that does not provide habitat for any of the species listed above, OEA has determined that the proposed abandonment would have *no effect* on threatened and endangered species or other biological resources. Accordingly, formal consultation with USFWS under Section 7 of the Endangered Species Act (16 U.S.C. § 1536) is unnecessary, and OEA is not recommending any mitigation related to biological resources.

Water Resources

NSR provided the E&H Report to the Indiana Department of Environmental Management (INDEM) and the U.S. Environmental Protection Agency (USEPA) and requested comments regarding the potential impact of the proposed abandonment. To date, those agencies have not commented on the potential for salvage activities to affect water resources. Because NSR does not intend to remove or alter the contour of the roadbed underlying the rail line and does not plan to undertake any excavation or ground disturbing activities during abandonment-related salvage, OEA concurs with NSR that the proposed abandonment would not affect water quality and that a National Pollutant Discharge Elimination System (NPDES) permit under Section 402 of the Clean Water Act (33 U.S.C. § 1342) would not be required. Therefore, OEA is not recommending any mitigation related to water quality.

NSR provided the E&H Report to the U.S. Army Corps of Engineers (Corps) requesting comments on the potential impact of the proposed abandonment on waterways and wetlands. The Corps provided comments stating that, because the proposed abandonment would not affect waters of the United States, a Corps permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344) would not be required. The Line does not cross any streams or wetlands, and NSR does not intend to undertake any in-stream work as part of abandonment-related salvage activities. Therefore, OEA is not recommending any mitigation related to waterways and wetlands.

Because the Line is not located within the boundary of the Lake Michigan Coastal Program, consultation under the Coastal Zone Management Act regarding coastal zone consistency would not be necessary for the proposed abandonment.⁴ Therefore, OEA is not recommending any mitigation related to coastal zone management.

Air Quality

USEPA provided comments stating that USEPA does not anticipate any adverse impact to air quality as a result of salvage activities. OEA believes that any air emissions associated with abandonment-related salvage would be temporary and would not have a significant impact on air quality. Therefore, OEA is not recommending any mitigation related to air quality.

⁴ Indiana Department of Natural Resources, Lake Michigan Coastal Program, <https://www.in.gov/dnr/lake-michigan-coastal-program/> (last visited October 18, 2022).

Noise

OEA believes that any noise related to abandonment activities would be temporary and should not have a significant impact on the area surrounding the proposed abandonment. Therefore, OEA is not recommending any mitigation related to noise.

Conclusion

Based on all 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: USEPA and IDEM.

HISTORIC REVIEW

According to NSR, the Line was originally part of the Lake Erie, Evansville & South Western Railway, which was completed circa 1873. In 1879, the Lake Erie, Evansville & South Western Railway was reorganized into the Evansville Local Trade Railroad. In 1880, the Evansville Local Trade Railroad was renamed the Evansville, Rockport and Eastern Railroad, which was absorbed into the Louisville, New Albany & St. Louis Railroad in 1881, later renamed the Louisville, Evansville & St. Louis Railroad. In the early 1900s, the Line became part of the Southern Railway Company of Indiana, which was vested in Southern Railway Company by deed in 1944. In 1982, the Southern Railway Company was renamed NSR as part of its merger with Norfolk and Western Railway.

There are no bridges or other structures within the rail right-of-way. The Line itself appears to be of ordinary design and construction, consisting of jointed steel rail supported by wooden crossties on stone ballast. The Line does not cross and is not immediately adjacent to any historic districts or other potentially rail-related historic properties that are listed in the National Register of Historic Places (National Register).⁵ Therefore, the proposed abandonment would have no effect on above-ground historic properties.

If abandonment authority is granted, NSR intends to remove the rail and track material from the existing roadbed. As noted above, NSR does not intend to remove ballast, disturb the underlying soil, or otherwise alter the contour of the roadbed. Therefore, the proposed abandonment would not have the potential to affect any below-ground archaeological sites.

NSR served the E&H Report on the Indiana Department of Natural Resources, Division of Preservation & Archaeology (State Historic Preservation Office or SHPO), pursuant to 49

⁵ Surface Transportation Board, Railroad Map Depot, <https://stb.maps.arcgis.com/home/index.html> (last visited October 18, 2022).

C.F.R. § 1105.8(c).⁶ The SHPO provided comments indicating that, based on the available documents, the SHPO has not identified any historic buildings, structures, districts, or objects listed in or eligible for inclusion in the National Register within the area of potential effects (APE) of the proposed abandonment. The SHPO states that, if any prehistoric or historic archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law requires that the discovery must be reported to the SHPO within two business days. To address the SHPO's concerns regarding unanticipated discoveries during abandonment-related salvage, OEA is recommending mitigation requiring NSR to cease work and notify the SHPO, OEA, and any other Section 106 consulting parties in the event of any unanticipated discovery of archeological artifacts or human remains.

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 National Register. 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.stb.gov. Guidance regarding the Board's historic preservation review process is available on the Board's website at <https://www.stb.gov/resources/environmental/historic-preservation-overview>.

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 (TDAT) to identify federally recognized Tribes that may have ancestral connections to the project area.⁷ 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 (the APE) of the proposed abandonment:

- Miami Tribe of Oklahoma;
- Osage Nation;
- Peoria Tribe of Indians of Oklahoma; and
- Quapaw Tribe of Indians.

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. 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://www.stb.gov/resources/environmental/historic-preservation-overview>.

⁷ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed October 18, 2022).

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

CONDITIONS

OEA recommends that the following conditions be imposed on any decision granting abandonment authority:⁸

1. Prior to undertaking any abandonment-related salvage activities, Norfolk Southern Railway (NSR) shall consult with the City of Evansville, Indiana (Evansville) regarding the City's plans for street improvements. NSR shall coordinate with Evansville to avoid potential work conflicts.
2. In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during Norfolk Southern Railway's (NSR) abandonment-related salvage activities, NSR shall immediately cease all work and notify the Office of Environmental Analysis (OEA), interested federally recognized tribes, and the Indiana Department of Natural Resources, Division of Historic Preservation & Archaeology (the State Historic Preservation Officer or SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA will then consult with the SHPO, interested federally recognized tribes, the railroad, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, 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 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

⁸ If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 is reached for the Line (or a portion thereof), compliance with these conditions is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

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.⁹

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 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). The Federal Register notice is also issued as a Board decision and is available on the Board's website.¹⁰

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

OEA encourages interested parties to submit their comments on the Draft EA electronically through the Board's website at <https://www.stb.gov/>. From the Board's home page, select "File an Environmental Comment" below the "Need Assistance?" button. Log-in accounts are not needed to file environmental comments electronically, and brief comments can be typed in the comment field, and lengthier comments can be attached as Word, Adobe Acrobat, or other file formats.

Alternatively, comments submitted by mail should be addressed to: Josh Wayland, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, Attention: Environmental Filing, Docket No. AB 290 (Sub-No. 411X). If you have any questions, please contact Josh Wayland by email at joshua.wayland@stb.gov or by phone at 202-245-0330.

⁹ Board decisions are available for viewing on the Board's website at www.stb.gov by clicking "Search STB Records;" selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "290" "411" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

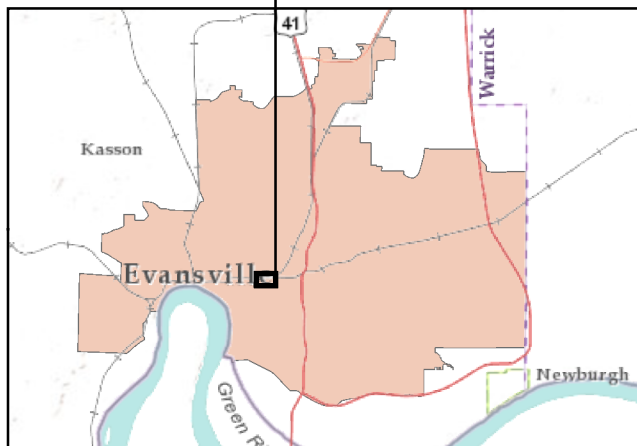
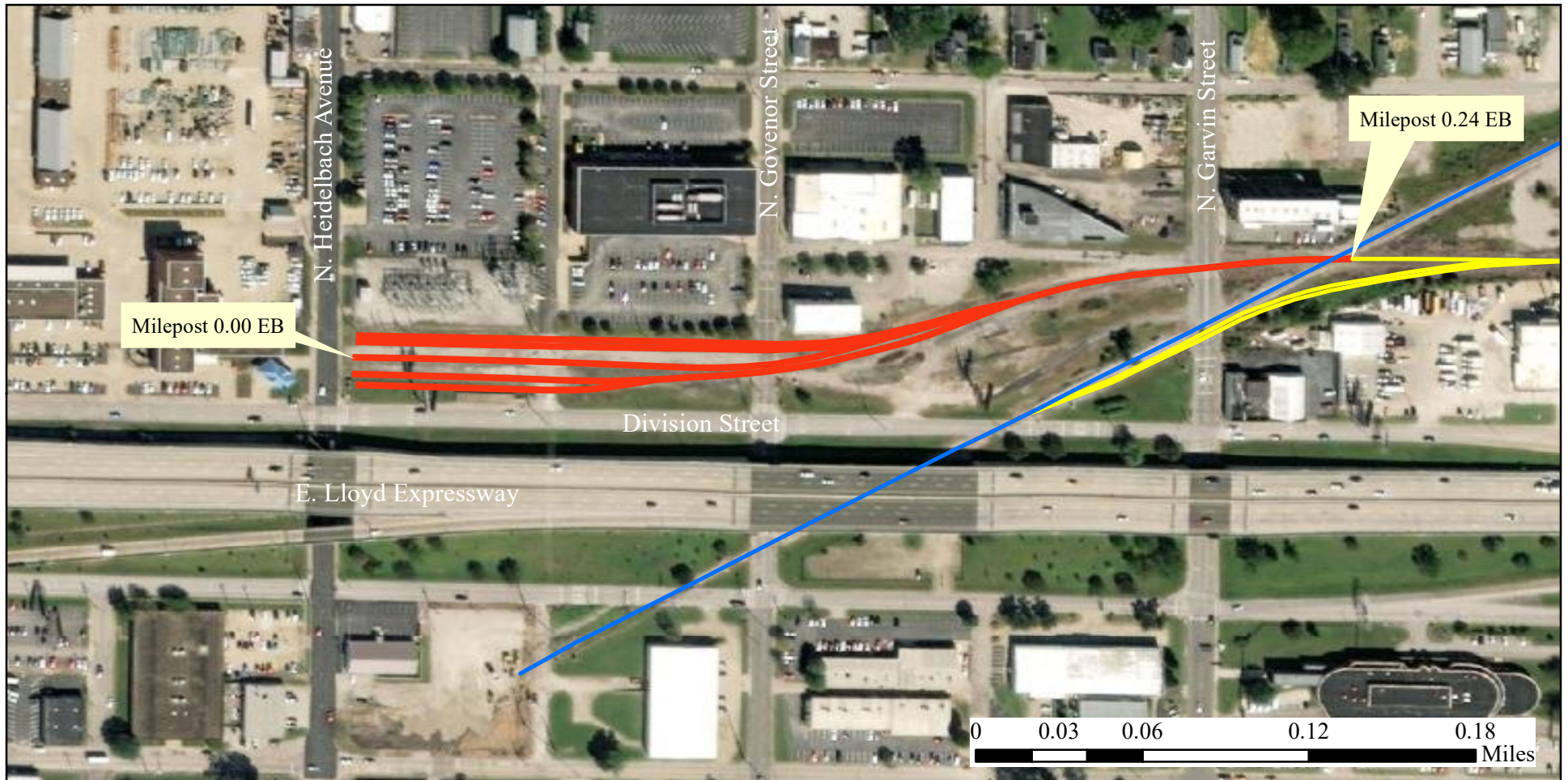
¹⁰ Id.

Date made available to the public: October 21, 2022.

Comment due date: November 7, 2022.

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

Attachment



Docket No. AB 290 (Sub-No. 411X)

Norfolk Southern Railway Company
Abandonment Exemption
In the City of Evansville, Indiana

- The Line
- Other NSR rail lines
- CSX rail lines

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

