

SERVICE DATE – JUNE 14, 2019

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 55 (Sub-No. 791X)

CSX Transportation, Inc. – Abandonment Exemption – in Mason County, Ky.

BACKGROUND

In this proceeding, CSX Transportation, Inc. (CSXT) filed a notice under 49 U.S.C § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 to abandon its dock and loadout/conveyor belt at the Maysville Port, beginning at milepost CA 599.0 in Mason County, Kentucky (the Line).¹ A map depicting the Line in relationship to the area served is appended to this EA.

DESCRIPTION OF THE LINE

CSXT states that the Line consists of three barges moored together, an open gondola on either end, and a closed platform gondola in the middle that houses the control loadout. The Line is located in CSXT's 62.88-acre coal terminal, known as TTI (Transcontinental Terminal, Inc.), on the Ohio River in Maysville, Kentucky. Prior to November 2016, CSXT indicates that it moved coal through the dock and loadout to a power plant down the Ohio River. CSXT states that the proposed abandonment would result in the removal of the dock and loadout/conveyor belt and that operations and maintenance of the Line would cease.

ENVIRONMENTAL REVIEW

CSXT submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. CSXT served the environmental report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].² The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

¹ CSXT states that it is seeking abandonment authority because, under Board precedent, rail-water terminal property has been considered a line of railroad and part of rail operations.

² The railroad's environmental and historic reports are available for viewing on the Board's website at www.stb.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 55 (Sub-No. 791X).

Diversion of Traffic

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

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. As discussed above, CSXT indicates that it would remove the dock and loadout/conveyor belt if the Board authorizes the proposed abandonment.

CSXT states that removal of material would be accomplished by use of the right-of-way for access, and no new access roads are contemplated. According to CSXT, salvage activities would not cause sedimentation or erosion of the soil, and CSXT does not anticipate any dredging or use of fill when removing material. Under these circumstances, CSXT believes that no permits under Section 404 of the Clean Water Act would be required for the proposed abandonment. OEA is providing the U.S. Army Corps of Engineers (Corps) with a copy of this EA for its review and comment.

The U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) submitted comments stating that no conversion of agricultural lands (prime, unique or farmland of local or statewide importance) would occur or be negatively affected by the proposed abandonment. However, NRCS states that prime farmland contiguous to the Line may be affected if any work other than removal of the dock and loadout/conveyor belt occurs. Because CSXT indicates that upon receiving abandonment authority it only intends to remove the dock and loadout/conveyor belt, OEA has determined that any prime farmland contiguous to the Line would not be affected. Therefore, no further consultation with NRCS is necessary.

The U.S. Fish and Wildlife Service (USFWS) commented that significant impacts to federally-listed species are not likely to result from the proposed abandonment. Therefore, OEA has determined that the proposed abandonment would have no effect on any federally-listed species present in the project area. OEA is providing USFWS with a copy of this EA for its review and comment.

The U.S. Environmental Protection Agency (USEPA) provided comments stating that it did not identify any significant impacts associated with the proposed abandonment. USEPA also concurred with CSXT that a Section 402 permit would not be necessary.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Any noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

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 EA to USFWS, the Corps and the U.S. Coast Guard Sector Ohio Valley for their review and comment.

HISTORIC REVIEW

CSXT served the historic report on the Kentucky Heritage Council (State Historic Preservation Officer or SHPO), pursuant to 49 C.F.R. § 1105.8(c).³ OEA has not heard from the SHPO and therefore has not been able to consider the SHPO's opinion before determining if the Line may be potentially eligible for listing on the National Register of Historic Places. Accordingly, OEA is recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the Area of Potential Effect (APE) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool,⁴ to identify federally-recognized tribes which may have ancestral connections to the project area. The search indicated the Delaware Nation, Oklahoma, the Eastern Band of Cherokee Indians, the Eastern Shawnee Tribe of Oklahoma, the Osage Nation, and the Seneca-Cayuga Nation may have knowledge regarding properties of traditional religious and cultural significance within the APE of the proposed abandonment. Accordingly, OEA is sending a copy of this EA to these tribes for their review and comment.

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 (NHPA). Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found on the Board's website at [https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation of 106 in Rail Abandonments.pdf](https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation%20of%20106%20in%20Rail%20Abandonments.pdf).

⁴ U.S. Department of Housing and Urban Development (<https://egis.hud.gov/tdat/>) (last visited 6/5/19).

CONDITIONS

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

CSXT Transportation, Inc. (CSXT) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the Area of Potential Effect that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. CSXT shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the Kentucky Heritage Council (State Historic Preservation Office or SHPO) and the public. CSXT may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is 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 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 Federal Register notice. CSXT states that it does not believe that the property proposed for abandonment would be suitable for other purposes.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29). CSXT states that it believes that the Line would not be suitable for interim trail use/rail banking.

PUBLIC ASSISTANCE

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

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Danielle Gosselin, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-55 (Sub-No. 791X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Danielle Gosselin, the environmental contact for this case, by phone at (202) 245-0300, fax at (202) 245-0454, or e-mail at danielle.gosselin@stb.gov.

Date made available to the public: June 14, 2019.

Comment due date: June 28, 2019.

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

Attachment



