



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

April 12, 2021

ELECTRONIC DELIVERY

Mr. Gene Payne
CSX Transportation, Inc.
500 Water Street, J801
Jacksonville, Florida 32202
Floyd_Payne@csx.com
Gene_Payne@csx.com

Re: STB Docket No. AB-55 (Sub-No. 804X), CSX Transportation, Inc., Abandonment Exemption in
Frederick County, MD
Former B&O Railroad Right of Way (MD1985)

Dear Mr. Payne:

The Land Restoration Program (LRP) of the Maryland Department of the Environment (MDE) has the following comments on the CSX Transportation (CSXT) request for MDE review and comment on the Abandonment Exemption for STB Docket No. AB-55 (Sub-No. 804X) for the Old Main Line Subdivision property located in Mt. Airy, Frederick County, Maryland.

In the "Combined Environmental and Historic Report," Section 3, Land Use, the report states under subsection i) that CSXT considers the proposed abandonment of the Line to be consistent with existing land use plans and that the purpose of this abandonment is to sell the Line to the City of Mt. Airy for trail use through the NITU process; and under subsection (iv) that CSXT believes the Line would be suitable for interim trail use/rail banking. LRP does not agree with either of these statements as written.

The current use of the Property as a rail line is considered an industrial use by LRP and the Property does not currently meet the MDE standards for an industrial use. In a meeting on August 1, 2019 and an email on August 29, 2019 to Mr. Coley Campbell of CSXT, LRP notified CSXT that composite soil sampling data from 2014 identified concentrations of arsenic ranging from 126 to 174 ppm and polycyclic aromatic hydrocarbons (PAHs), including benzo(a)pyrene from 0.531 ppm to 6.51 ppm. At that time, the LRP indicated that the data did not allow us to determine whether potential impacts to neighboring properties from the historic rail usage exist or ensure that potential impacts did not pose a threat to human health or the environment. LRP indicated that additional investigation was necessary to determine the areal extent of impacts to the 8.22-acre Property or adjacent portions of the unused rail line from arsenic and PAHs. As is, or with the rail line abandonment activities completed, the Property does not meet the industrial use requirements.

For the proposed future use of the Property as a bike path, which is considered a medium frequency recreational use by MDE, the Property has been accepted for participation in LRP's Voluntary Cleanup Program under an application by the Town of Mount Airy and is amenable to use of the Property for medium frequency recreational uses if a Response Action Plan is submitted, approved, and implemented to the satisfaction of the LRP. As is, or with the rail line abandonment activities completed, the Property does not meet the medium

frequency recreational use requirements; an environmental cap or soil removal will be necessary for a medium frequency recreational use.

On February 23, 2021, MDE approved a work plan submitted on behalf of the Town of Mount Airy to determine the areal extent of impacts on the Property that will be used by the Town of Mount Airy to draft a proposed Response Action Plan and will allow MDE to determine whether there are any additional concerns about the extent of contamination on the Property, including potential for off-property impacts.

While MDE does not agree with the statements above and requires additional investigation and remediation at the Property, rail line abandonment activities will not impact the LRP requirements and may be completed. LRP's agreement that the abandonment activities described in the report may proceed does not imply agreement with any of the statements in the report or imply closure of the Property by LRP. LRP's review of the Abandonment Exemption for STB Docket No. AB-55 (Sub-No. 804X) is not intended to comment on concerns under the jurisdiction of other MDE programs.

For your information, MDE's review of the information provided was conducted in accordance with our statutory and regulatory authority on behalf of the public at large in seeking to protect human health and safety, as well as the natural resources of the State from contamination by pollutants, and not for the benefit of any specific group. As always, this letter should not be construed as a waiver or limitation of MDE's right to take enforcement or other action with respect to activities not addressed herein or unknown to MDE at this time, including newly discovered contamination or the exacerbation of existing contamination. MDE and the State of Maryland retain all authority and rights against any person in any way responsible for causing the contamination present at or migrating from the site, including the right to seek all available relief, including equitable relief and damages of any nature, such as compensatory and natural resources damage, resulting from the release of any contaminant at the Property.

The Department appreciates your participation in the VCP. If you have any questions or comments concerning the COC and Environmental Covenant, please do not hesitate to contact me at Richelle.hanson@maryland.gov or at 410-537-3467.

Sincerely,



Richelle Hanson, Project Manager
Voluntary Cleanup Program

Enclosures

cc: Ms. Melanie B. Yasbin, Law Offices of Louis E. Gitomer, LLC (melanie@lgrailaw.com)
Mr. Coley Campbell, CSX (coley_j_campbell@csx.com)
Mr. Barney Quinn, Town of Mt Airy (bquinn@mountairymd.gov)
Mr. Mike Bell, ECS (mbell@ecslimited.com)
Ms. Barbara Krupiarz, Administrator, Land Restoration Program (barbara.krupiarz2@maryland.gov)