

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 167 (Sub-No. 1195X)

**Consolidated Rail Corporation - Abandonment Exemption – in Schuylkill & Carbon
Counties, Pa.**

BACKGROUND

In this proceeding, the Consolidated Rail Corporation (Conrail) 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 to abandon a line of railroad in Schuylkill and Carbon counties, Pennsylvania. The rail line, known as the Tresckow Branch, extends approximately 7.7 miles from milepost 0.00 to milepost 7.7 (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, known as the Tresckow Branch, runs between mileposts 0.0 and 7.7 in Kline Township, Schuylkill County and proceeds through Packer and Banks townships in Carbon County, Pennsylvania. The single-track right-of-way crosses through rural and hilly topography and is approximately 64 feet wide. There are no bridges, culverts, ballast, or track on the property.

The Line was built in 1870 by the Tresckow Railroad, which was controlled by the Lehigh Coal & Navigation Company. In 1871, the Line was leased to the Central Railroad of New Jersey (CNJ), which was part of the Lehigh & Susquehanna Railroad system (L&S System). The Line was constructed to access and transport anthracite coal from the regional mines to markets. In 1963 the Board's predecessor agency, the Interstate Commerce Commission (the ICC), authorized the Reading Company to purchase the L&S System, and in 1971 the ICC authorized CNJ to abandon the Line. The Line appears to have been taken over by the Lehigh Valley Railroad Company in 1972. In 1976, Conrail acquired the property associated with the Line.

Conrail now proposes to abandon the out-of-service Line, and no salvage is proposed. The Line has been inactive for at least 20 years, and there is no track nor structures remaining on the Line. Following abandonment, Conrail intends to convey the portion of the right-of-way from milepost 0.0 to milepost 1.55 to a property developer.

ENVIRONMENTAL REVIEW

Conrail 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. Conrail 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 Conrail, no local traffic has moved over the Line for at least two years, and there is no overhead traffic to be 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, Conrail intends to convey the portion of the right-of-way from milepost 0.0 to milepost 1.55 to a property developer as noted above. Conrail does not plan to conduct any salvage activities.

Conrail requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of the proposed abandonment to protected wildlife, including federally listed threatened and endangered species. To date, USFWS has not provided comments. To identify protected species in the project area, OEA conducted a search of the USFWS Information for

¹ The E&H Report is available for viewing on the Board's website at <https://stb.gov/> by clicking "Search STB Records;" selecting "Filings" in the "Search for" dropdown menu; entering "AB" "167" "1195" "X" sequentially in the boxes for "Docket Number," then selecting "Search." The E&H Report was filed on November 12, 2021.

Planning and Conservation (IPaC) system.² Three protected threatened or endangered species are located in the area of the proposed abandonment: Indiana Bat (*Myotis sodalis*), the Northern Long-eared Bat (*Myotis septentrionalis*), and the Northeastern Bulrush (*Scirpus ancistrochaetus*). According to the IPaC report, there may be critical habitat for these species in the project area. OEA has determined that these federally listed threatened or endangered species would not be affected because of the abandonment's limited scope (i.e., no salvage). OEA is providing USFWS (Pennsylvania Field Office) a copy of this EA for its review.

Conrail requested comments from the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) regarding potential impacts to prime farmland and soils. On November 30, 2021, NRCS commented that the proposed abandonment would have no potential for impacts to its easements and dams, and there would be no impacts to Prime Farmland soils or Soils of Statewide Importance. Accordingly, no mitigation related to agricultural land is necessary or recommended.

Conrail requested comments from the National Geodetic Survey (NGS) regarding the potential for geodetic survey markers in the project area. On November 23, 2021, NGS provided comments stating that there are no markers within or adjacent to the rail line right-of-way proposed for abandonment. Therefore, no further consultation with NGS is recommended.

The proposed abandonment is not located within a Coastal Zone. Therefore, no further consultation with the Pennsylvania Coastal Management Program is required.

The E&H Report was submitted to the U.S. Environmental Protection Agency, Region 3 (USEPA) and the U.S. Army Corps of Engineers, Philadelphia District (USACE) for comments on potential permitting requirements under Sections 402 and 404 of the Clean Water Act (CWA) (33 U.S.C. §§ 1342 and 1344), respectively. To date, OEA has not received a response from USEPA. USACE submitted comments on September 30, 2021 noting that the agency could not make any determinations regarding federal permitting without knowing the specific work proposed within existing waters and wetlands. USACE also noted that the project is located in both the Philadelphia and Baltimore districts, so both Districts would need to be consulted. OEA does not anticipate the need for permits under the CWA because Conrail does not intend to salvage the Line, disturb any roadbed underlying the Line, or do any work in waters of the U.S. OEA is providing a copy of this Draft EA to the USEPA and USACE (Philadelphia and Baltimore Districts) for their review.

Because Conrail does not intend to conduct any salvage activities, OEA concludes that there would be no air, water, or noise emission impacts from 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

² USFWS Information for Planning and Conservation (IPaC) search conducted on December 2, 2021 (<https://ecos.fws.gov/ipac/>).

Board's service list for this proceeding, OEA is providing a copy of this Draft EA to USFWS (Pennsylvania Field Office), USEPA, and USACE (Baltimore and Philadelphia Districts) for review and comment.

HISTORIC REVIEW

Conrail served the E&H Report on the Pennsylvania Historical and Museum Commission (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c).³ The SHPO responded on February 17, 2021 with a request for additional information. Conrail sent digital photographs and historic railroad valuation maps to the SHPO via email on July 2, 2021. OEA has not heard from the SHPO and therefore has not been able to consider the SHPO's opinion before determining if the rail line may be potentially eligible for listing on the National Register of Historic Places (NRHP).

Based on the information provided by Conrail and OEA's independent research, OEA does not believe that there are any historic properties within the rail right-of-way (the Area of Potential Effects or APE) that are listed in or that may be eligible for listing in the National Register of Historic Places (National Register). There are no structural features on the Line itself (ballast, rail, ties, culverts, bridges) as all elements were removed many years ago, leaving only a right-of-way. In addition, Conrail does not propose to undertake any salvage activities as part of the proposed abandonment that could affect historic properties. Based on the information available to date, the Line does not appear to be associated with events that have made significant contribution to the broad patterns of history or with lives of significant persons. The Line also does not embody distinctive characteristics of a type, period, or method of construction and does not represent the work of a master or possess high artistic value.

Therefore, OEA has determined that the proposed abandonment would have no effect on historic properties that are listed in or eligible for listing in the National Register within the APE. The documentation for that 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 <https://stb.gov/>. In order to give the SHPO sufficient time to comment on OEA's determination, OEA is recommending that the Board impose a condition barring Conrail from consummating the proposed abandonment until the Section 106 process has been completed. If the SHPO does not object to OEA's determination or does not comment within 30 days of receipt of this Draft EA, OEA will recommend that the Board remove the Section 106 condition,

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

pursuant to 36 C.F.R. § 800.5(c). Guidance regarding the Board's historic preservation review process is available on the Board's website at <https://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.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 (the APE) of the proposed abandonment: the Tuscarora Nation, the Delaware Tribe of Indians, the Seneca-Cayuga Nation, and the Delaware Nation of Oklahoma. Accordingly, OEA is sending a copy of this Draft EA to these Tribes for review and comment.

CONDITIONS

OEA recommends that the following condition be imposed on any decision granting abandonment authority:⁵

The Consolidated Rail Corporation (Conrail) 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 project right-of-way (the Area of Potential Effects) 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. Conrail shall report back to OEA regarding any consultations with the State Historic Preservation Office and the public. Conrail 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, 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

⁴ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed December 2, 2021).

⁵ 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 this condition is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

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.⁶

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.⁷

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://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 Alan Tabachnick by email at alan.tabachnick@stb.gov or by phone at 202-245-0347.

⁶ Board decisions are available for viewing on the Board's website at <https://stb.gov> by clicking "Search STB Records;" selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "167" "1195" "X" sequentially in the boxes for "Docket Number," then selecting "Search."

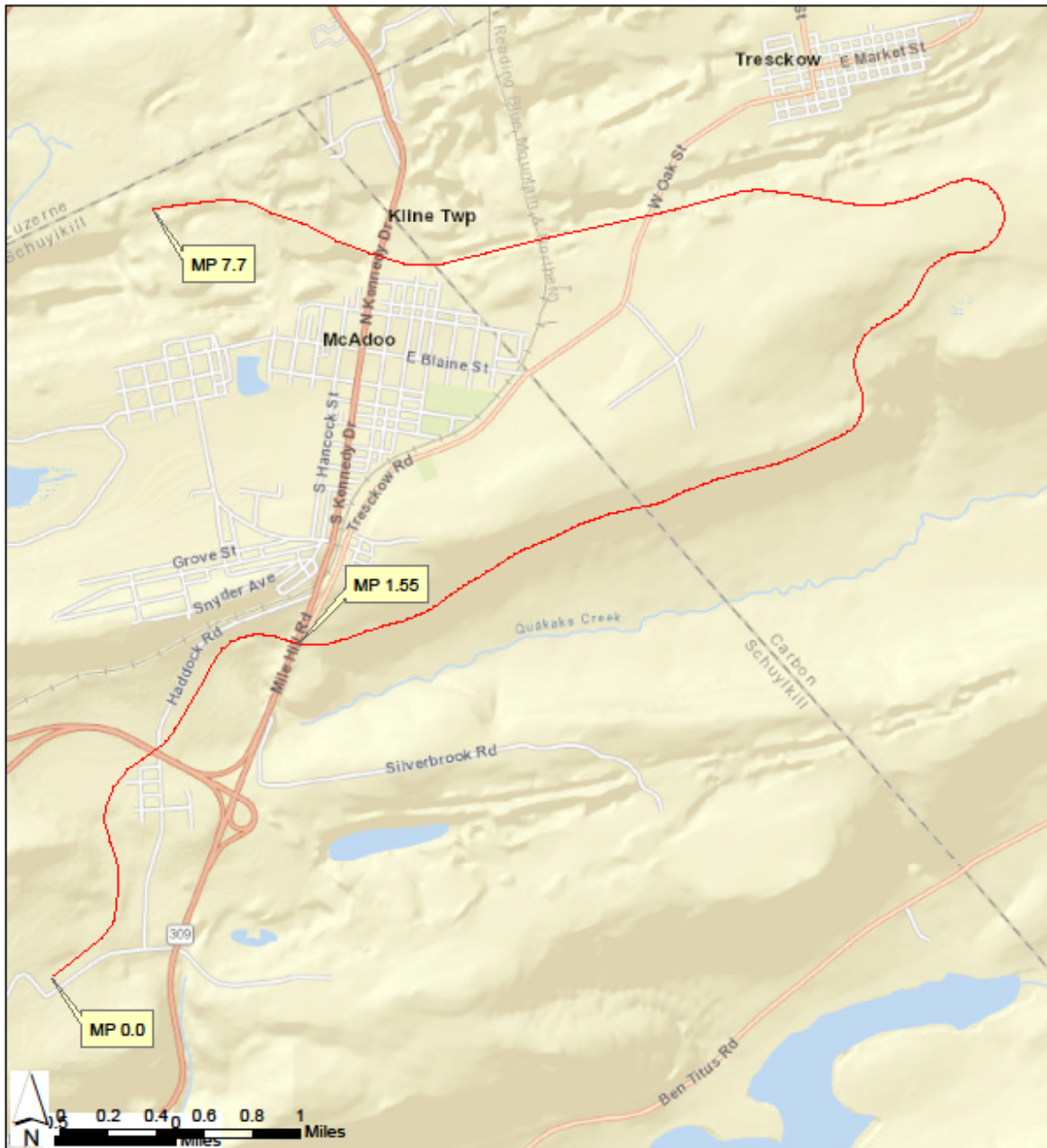
⁷ Id.

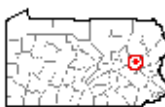
Date made available to the public: December 7, 2021.

Comment due date: December 21, 2021.

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

Attachment



 Docket No. AB 167 (Sub-No. 1195X) Docket No. AB 167 (Sub-No. 1195X) Consolidated Rail Corporation Abandonment Exemption In Schuylkill & Carbon Counties, PA	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.	 Pennsylvania
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