

**51309  
OEA**

**SERVICE DATE – JULY 15, 2022**

**SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423**

**DRAFT ENVIRONMENTAL ASSESSMENT**

**Docket No. AB 55 (Sub-No. 807X)  
CSX Transportation, Inc. – Abandonment Exemption –  
In Muskegon County, Mich.**

**and**

**Docket No. AB 364 (Sub-No. 17X)  
Michigan Shore Railroad Division, Mid-Michigan Railroad, Inc. –  
Discontinuance of Service –  
In Muskegon County, Mich.**

**BACKGROUND**

In this proceeding, CSX Transportation, Inc. (CSXT) 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 and for Michigan Shore Railroad Division, Mid-Michigan Railroad, Inc. (MMRR) to discontinue a line of railroad in Muskegon County, Michigan. The rail line proposed for abandonment extends approximately 3.81 miles from milepost CGCS 56.35 just east of 11<sup>th</sup> Street to milepost CGCS 60.16 near Keaton Court on the South Horn Spur (the Line). CSXT owns the Line and MMRR is the lessee. 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, CSXT will be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way.

**DESCRIPTION OF THE LINE**

According to CSXT, the Line's right-of-way is approximately 90 feet wide. The Line begins in the City of Muskegon just east of 11<sup>th</sup> Street, extending northwest following W Western Avenue. At the end of W Western Avenue the Line turns southwest running past Lakeshore Yacht Harbor. The Line runs parallel to the Muskegon Lakeshore Trail and Lakeshore Drive. The Line continues to run parallel to Lakeshore Drive crossing the inlet that leads to Ruddiman Lagoon. The Line then crosses Estes, Torrent, Mann, and McCracken streets. The Line continues behind the Lakeshore Federal Credit Union, still running roughly parallel to the Lakeshore Drive. Following Lakeshore Drive, the Line crosses Cottage Grove Street, Sampson Avenue, and Millard Avenue. The Line ends near Keaton Court.

According to CSXT, there is one bridge on the Line that may be at least 50 years old. However, CSXT does not have information on when it was built. The bridge is a timber open deck bridge that spans approximately 42 feet over the inlet that leads to the Ruddiman Lagoon.

According to CSXT, the Line is a spur track located off what was originally the Lake Shore and Michigan Southern Railway. The Lake Shore and Michigan Southern Railway was established in 1833, and sometimes referred to as the Lake Shore, was a major part of the New York Central Railroad's Water Level Route from Buffalo, New York, to Chicago, Illinois, primarily along the south shore of Lake Erie (in New York, Pennsylvania and Ohio) and across northern Indiana. According to CSXT, the Lake Shore and Michigan Southern Railway's trackage remains a major rail transportation corridor used by Amtrak passenger trains and several freight lines. In 1998, its ownership was split at Cleveland between CSXT to the east and Norfolk Southern to the west.

## **ENVIRONMENTAL REVIEW**

CSXT 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. CSXT 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)]<sup>1</sup> 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 CSXT, no local traffic has moved over the Line over the last two 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.

---

<sup>1</sup> The E&H Report is available for viewing on the Board's website at [www.stb.gov](http://www.stb.gov) by clicking "Search STB Records;" selecting "Filings" in the "Search for" dropdown menu; entering "AB" "55" "807" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The E&H Report was filed on June 21, 2022.

## *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. According to CSXT, it intends to sell a 2-mile portion of the Line between mileposts CGCS 56.35 and milepost CGCS 58.35 to the City of Muskegon for trail use. CSXT states that abandonment of the Line would result in the removal of the rails, crossties, and possibly the upper layer of ballast. CSXT does not intend to disturb any subgrade or subgrade structures. Any potential trail-related structures, such as bridges, trestles, culverts, and tunnels would not be salvaged.

The National Geodetic Survey (NGS) has indicated that there may be geodetic survey markers in the right-of-way that could be disturbed by the proposed abandonment. Accordingly, OEA recommends a condition requiring CSXT to notify NGS at least 90 days prior to beginning abandonment-related salvage activities to allow time for any geodetic survey markers that may be present in the right-of-way to be preserved.

CSXT 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. USFWS submitted comments identifying seven threatened and endangered species and one candidate species:

- Indiana bat (*Myotis sodalis*), an endangered mammal
- Northern long-eared bat (*Myotis septentrionalis*), a threatened mammal
- Piping plover (*Charadrius melodus*), an endangered bird
- Red knot (*Calidris canutus rufa*), a threatened bird
- Eastern Massasauga (*Sistrurus catenatus*), a threatened rattlesnake
- Karner blue butterfly (*Lycaiedes melissa samuelis*), an endangered insect
- Pitcher's thistle (*Cirsium pitcher*), a threatened flowering plant
- Monarch butterfly (*Danaus plexippus*), a candidate insect

CSXT submitted its effects determination to USFWS stating that the proposed abandonment and salvage-related activities would either have “no effect” or “may affect, not likely to adversely affect” the seven listed threatened and endangered species above, due to the limited scope of salvage-related activities, the absence of any critical habitat, and the lack of any tree felling or suitable habitat likely occurring within the developed rail right-of-way. USFWS noted salvage personnel should watch the Michigan Department of Natural Resources’ “60-second snakes: the Eastern Massasauga Rattlesnake (EMR)” video, review the EMR factsheet, or call 517-351-2555 to increase human safety and awareness of EMR, as well as report any EMR observations or observation of any other listed threatened or endangered species during salvage to USFWS within 24 hours. OEA has determined that if the recommended mitigation measures are imposed, there would be no adverse effect to these federally listed threatened and endangered species. Accordingly, OEA recommends that a condition requiring CSXT to provide EMR

safety training of salvage personnel and report observations of threatened and endangered species to USFWS be imposed on any decision granting abandonment authority. OEA is providing USFWS Michigan Ecological Services Field Office a copy of this EA for its review.

CSXT requested a consistency certification concurrence from Michigan Department of Environment, Great Lakes, and Energy - State Coastal Zone Management Agency (CZMA). The CZMA has not yet submitted comments regarding CSXT's request, noting that there is a four-week public comment period as part of its process. Accordingly, OEA recommends a condition requiring CSXT to continue consultations with the CZMA, and prohibiting CSXT from filing its consummation notice or initiating any salvage activities, until it reports the results of consultations to OEA and the Board removes the recommended condition. OEA is providing the CZMA a copy of this EA for its review.

The U. S. Army Corps of Engineers (Corps) commented that as long as work is confined to the existing railbed and no material is deposited in wetlands or the waterway, that a Corps permit would not be required. Any discharge of fill material into a Water of the United States or adjacent wetlands or removal of the bridge crossing Ruddiman Creek would require a Corps permit, pursuant to Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899, and prior authorization through the Corps' regulatory permit process. The Corps noted that the Line appears to pass through parts of the 100-year floodplain, as delineated under the National Flood Insurance Program, and recommends that CSXT coordinate with local and state officials regarding the applicability of a floodplain permit prior to construction. Accordingly, OEA recommends that a condition requiring CSXT to consult with the Michigan Department of Environment, Great Lakes and Energy (EGLE) and the Muskegon County Water Resources Commissioner to discuss potential permitting requirements or protective measures needed relative to the 100-year floodplain prior to beginning any abandonment-related salvage activities. OEA is providing EGLE and the Muskegon County Water Resources Commissioner a copy of this EA for its review.

OEA believes that any air emissions associated with abandonment activities would be temporary and would not have a significant impact on air quality. Similarly, any noise related to abandonment 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 Draft EA to the following agencies for review and comment: NGS, USFWS, Corps, EGLE, CZMA, and the Muskegon County Water Resources Commissioner.

## **HISTORIC REVIEW**

CSXT served the E&H Report on the Michigan State Historic Preservation Office (SHPO), pursuant to 49 C.F.R. § 1105.8(c).<sup>2</sup> SHPO responded to CSXT's initial outreach noting that project information submitted is incomplete and that SHPO cannot initiate the Section 106 review process without complete project information. Therefore, OEA 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. 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 project right-of-way (the Area of Potential Effect) 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 <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.<sup>3</sup> 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 Miami Tribe of Oklahoma; the Sault Ste. Marie Tribe of Chippewa Indians, Michigan; the Little River Band of Ottawa Indians, Michigan; the Little Traverse Bay Bands of Odawa Indians, Michigan; the Red Lake Band of Chippewa Indians, Minnesota; the Menominee Indian Tribe of Wisconsin; and the Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin. Accordingly, OEA is sending a copy of this Draft EA to these Tribes for review and comment.

## **CONDITIONS**

OEA recommends that the following condition(s) be imposed on any decision granting abandonment authority:<sup>4</sup>

1. CSX Transportation, Inc. (CSXT) shall notify the National Geodetic Survey (NGS) at

---

<sup>2</sup> 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>.

<sup>3</sup> U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed July 13, 2022).

<sup>4</sup> 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.

[NGS.Infocenter@noaa.gov](mailto:NGS.Infocenter@noaa.gov) at least 90 days prior to beginning abandonment-related salvage activities.

2. CSX Transportation, Inc. shall require salvage personnel to receive Eastern Massasauga Rattlesnake (EMR) safety training prior to the commencement of any abandonment-related salvage activities and report observations of EMRs and any other threatened and endangered species during salvage to the U.S. Fish and Wildlife Service.
3. Pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 et seq.) and the Board's environmental regulations at 49 C.F.R. § 1105.9, CSXT shall consult with the Michigan Department of Environment, Great Lakes, and Energy and obtain state coastal management consistency certification, if necessary. CSXT may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to the Board's Office of Environmental Analysis (OEA) and the Board has removed this condition.
4. CSX Transportation, Inc. shall consult with the Michigan Department of Environment, Great Lakes, and Energy and the Muskegon County Water Resources Commissioner's office prior to commencement of any abandonment-related salvage activities regarding potential impacts to the 100-year floodplain and shall comply with the reasonable requirements of each agency.
5. CSX 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 project right-of-way (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 OEA regarding any consultations with the Michigan State Historic Preservation Office 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 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 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.<sup>5</sup>

## **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.<sup>6</sup>

## **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.

---

<sup>5</sup> Board decisions are available for viewing on the Board's website at [www.stb.gov](https://www.stb.gov/) by clicking "Search STB Records;" selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "55" "807" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

<sup>6</sup> Id.

Alternatively, comments submitted by mail should be addressed to: Adam Assenza, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, Attention: Environmental Filing, Docket No. AB 55 (Sub-No. 807X). If you have any questions, please contact Adam Assenza by email at [adam.assenza@stb.gov](mailto:adam.assenza@stb.gov) or by phone at 202-245-0301.

Date made available to the public: July 15, 2022.

**Comment due date: August 1, 2022.**

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

Attachment



**Docket No. AB 55 (Sub-No. 807X)**

CSX Transportation, Inc.  
Abandonment Exemption

**Docket No. AB 364 (Sub-No. 17X)**

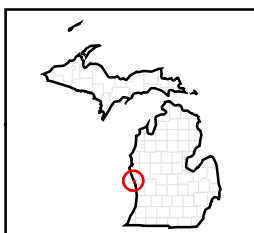
Michigan Shore Railroad Division  
Mid-Michigan Railroad, Inc.  
Discontinuance of Service Exemption

In Muskegon County, GA

**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.



Michigan



