

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 290 (Sub-No. 406X)

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

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) filed a petition for exemption with the Surface Transportation Board (Board) under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10903 to abandon approximately 2.29 miles of rail line, previously known as the Fourth Street Industrial Track, extending from milepost GI 0.0 to milepost GI 2.29 in the City of Fort Wayne, Allen County, Indiana (the Line). The Line traverses United States ZIP Codes 46805 and 46808, and the right-of-way varies from 20 to 100 feet in width along the main track centerline. The topography of the surrounding area is relatively level, and the Line passes through a mix of residential, commercial and industrial uses. Based on information in its possession, NSR states that the Line does not contain any federally granted rights-of-way. A map depicting the Line in relationship to the area served is appended to this Draft Environmental Assessment (EA).

NSR seeks to abandon the Line because the Line has been dormant for nearly two decades, and there is no potential for future traffic. NSR states that the track, ties and rail appurtenances have been salvaged on the line between milepost GI 0.0 and milepost GI 2.04 but remain in place on the segment extending westward to milepost GI 2.29. There were no structures on the salvaged line segment.

On October 23, 2019, the Board rejected a notice of exemption initially filed by NSR to abandon the Line due to uncertainty regarding whether the Line is railroad line governed by 49 U.S.C. § 10901, in which case Board abandonment authority is required, see § 49 U.S.C. § 10903(a)(1), or excepted track governed by 49 U.S.C. § 10906.¹ In its decision, the Board stated that NSR could file a petition or application if NSR believes that there is substantial evidence indicating that the Line is railroad track government by § 10901. NSR filed its current petition on December 6, 2019.

¹ See Norfolk S. Ry.-Aban. Exemption-in the City of Fort Wayne, Ind., AB 290 (Sub-No. 403X) (STB served Oct. 23, 2019).

ENVIRONMENTAL REVIEW

NSR submitted a combined environmental and historic report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR served the environmental and historic report on a number of appropriate federal, state, and local agencies as required by the Board's 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.

Diversion of Traffic

As previously stated, the Line has had no traffic for almost 20 years, and there is no potential for future traffic. 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 construction of new access points to the right-of-way. As noted above, the track, ties and rail appurtenances have been salvaged on the line segment between milepost GI 0.0 and GI milepost 2.04 but remain in place westward to milepost GI 2.29. NSR indicates that there is one bridge on the Line at milepost GI 2.18. If abandonment authority is granted, NSR intends to retain and leave in place the bridge and remaining track, ties and rail appurtenances.³ Accordingly, no salvage would occur as a result of the proposed abandonment, and there would be no associated environmental impacts, including on air emission and noise.

The National Geodetic Survey (NGS) has indicated that no geodetic survey markers are present in the area of the proposed abandonment. Therefore, no further consultation with NGS is recommended.

² The 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 290 (Sub-No. 406X).

³ NSR initially indicated that it intended to reclassify the line segment between milepost GI 2.29 and milepost GI 1.85 from §10901 track to §10906 track. However, NSR now states that it no longer plans to reclassify the track but still intends to retain and leave in place all existing associated rail appurtenances. NSR reaffirmed this arrangement in a telephone conversation with OEA on January 20, 2020. Thus, OEA has concluded that no salvage would occur as a result of the proposed abandonment.

OEA has not received comments from the U.S. Army Corps of Engineers' (Corps) regarding the need for a Section 404 permit under the Clean Water Act (33 U.S.C. § 1344). NSR states that no salvage would occur as a result of the proposed abandonment and that there would be no discharge of dredged or fill material into waters of the United States; no alteration of the roadbed or other activities; and no instream work that may otherwise affect waterbodies, including wetlands. Accordingly, OEA is not recommending any mitigation related to impacts to waters of the United States but has included the Corps' in the service list for this proceeding so that it may review the Draft EA and provide comments, if necessary.

OEA has not received comments from the U.S. Environmental Protection Agency (USEPA) regarding the need for a Section 402 permit under the Clean Water Act (33 U.S.C. § 1342). NSR states that it does not plan to remove or alter the underlying roadbed of the Line; nor does it intend to undertake in-stream work or conduct any other ground disturbing activity that may affect water quality. Accordingly, OEA is not recommending any mitigation related to water quality impacts but has included USEPA in the service list for this proceeding so that it may review the Draft EA and provide comments, if necessary.

The U.S. Fish and Wildlife Service (USFWS), Indiana Field Office commented that the proposed abandonment is within the range of the federally endangered Indiana bat (*Myotis sodalist*) and ray bean mussel (*Villosa fabalis*) and the threatened long-eared bat (*Myotis septentrionalis*) and eastern massasauga rattlesnake (*Sistrurus catenatus*). However, because the area lacks the species' habitat, USFWS finds that the proposed abandonment is not likely to adversely affect these endangered and threatened species, pursuant to the Endangered Species Act of 1973 (16 U.S.C. § 1531 *et seq.*), and that no further consultation is necessary. Accordingly, OEA is not recommending any mitigation related to these federally listed species.

The U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) commented that the proposed abandonment would not cause a conversion of farmland. Accordingly, OEA concludes that no further coordination with NRCS is necessary in this proceeding.

The Indiana Department of Environmental Management (IDEM), Office of Records Management (ORM) commented that it identified 13 brownfield, remediation, hazardous waste and underground storage tank sites from its data base within the area of the proposed abandonment. To determine locations, OEA generated a map of ORM's listed resource areas using USEPA's NEPAAssist tool.⁴ According to the map, there are no sites located within the abandonment right-of-way. Because NSR does not intend to conduct salvage activities, any contaminated soils or ground water associated with the identified sites would likely not be impacted by the proposed abandonment. Therefore, OEA is not recommending any mitigation related to hazardous waste sites.

The Indiana Department of Natural Resources, Lake Michigan Coastal Program commented that the area of the proposed abandonment is outside its Lake Michigan Coastal

⁴ Environmental Protection Agency NEPAAssist Planning Tool, <https://nepassisttool.epa.gov/nepassist/analysis.aspx>, (last accessed January 23, 2020).

Program's designated Coastal Program Area. Accordingly, there is no need for a consistency determination, pursuant to the Coastal Zone Management Act (CZMA).

The Indiana Department of Natural Resources (IDNR), Division of Fish and Wildlife stated that it has no comments because no salvage or other land disturbance is contemplated. Accordingly, OEA concludes that no further coordination with IDNR is necessary in this proceeding.

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: the U.S. Environmental Protection Agency; the National Park Service; the U.S. Fish and Wildlife Service; the Indiana Department of Transportation; the Indiana Department of Environmental Management; the Indiana Office of the Governor; Allen County; and the City of Fort Wayne.

HISTORIC REVIEW

NSR served the historic report on the Indiana Department of Natural Resources (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c) as required by the Board's environmental rules at 49 C.F.R. § 1105.8(a).⁵ The SHPO commented that there are no recorded archaeological resources eligible for inclusion in the National Register of Historic Places (National Register) within the right-of-way or area of potential effects (APE) and that no further information would be needed as long as there is no salvage or other land disturbance activities associated with the proposed abandonment. The SHPO indicated that it would need to assess any future land disturbing activities, should they be contemplated, for potential historic deposits associated with the railroad and any prehistoric or historic archaeological artifacts or human remains. As no salvage would occur as a result of the proposed abandonment, OEA is not recommending any mitigation measures pertaining to archeological resources.

For buildings and structures, the SHPO concurs with NSR's historic report that the bridge at milepost GI 2.18 does not meet the criteria for National Register listing. The SHPO identified three National Register historic districts within the area of the proposed abandonment – the Fort Wayne Park and Boulevard System Historic District; the Saint Vincent Villa Historic District; and the Brookview-Irvington Park Historic District. Based on available information, the SHPO believes that the characteristics that qualify the three historic districts for inclusion in the National Register would not be diminished as a result of the proposed abandonment. Based on

⁵ 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).

SHPO's opinion and because there would be no salvage, OEA has determined that the proposed abandonment would have no adverse effect on the National Register historic districts.

Pursuant to the Section 106 regulations of the NHPA at 36 C.F.R. § 800.5(b), 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(e), 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 <http://www.stb.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development's Native American Consultation Database to identify federally recognized tribes that may have ancestral connections to the project area.⁶ The database indicated that there are ten federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way or APE of the proposed abandonment. The tribes are: the Citizen Potawatomi Nation, Oklahoma; the Eastern Shawnee Tribe of Oklahoma; the Forest County Potawatomi Community of Wisconsin; the Hannahville Indian Community, Michigan; the Miami Tribe of Oklahoma; the Ottawa Tribe of Oklahoma; the Peoria Tribe of Indians of Oklahoma; the Prairie Band Potawatomi Nation; the Shawnee Tribe; and the Wyandotte Nation. OEA has included these tribes in the service list for this proceeding so that they may receive a copy of the Draft EA for review.

CONDITIONS

OEA recommends that no conditions be imposed on any decision granting abandonment authority.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that 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 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 4-part showing for imposition of a public use

⁶ The U.S. Department of Housing and Urban Development's Tribal Directory Assessment Tool at <http://egis.hud.gov/tadat/Tribal.aspx> (last visited January 29, 2020).

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.

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).

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 Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

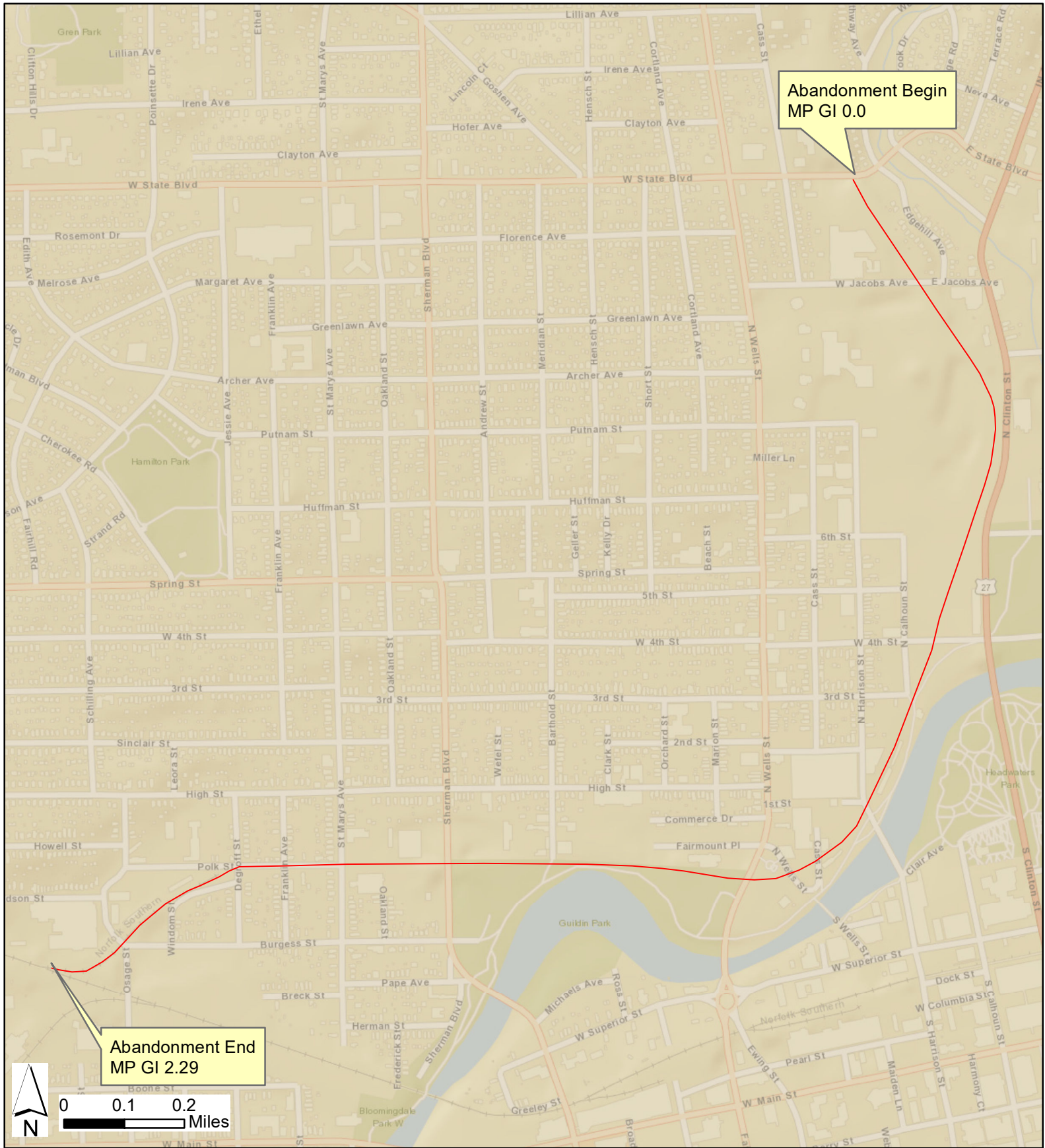
If you wish to file comments regarding this Draft Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Diana Wood, who prepared this Draft Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 290 (Sub-No. 406X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Draft Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at Diana.Wood@stb.gov.

Date made available to the public: February 4, 2020.

Comment due date: March 6, 2020.

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

Attachments



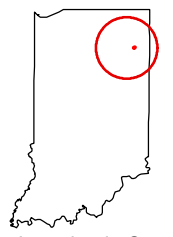
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Legend

— 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.



Location in State