

SERVICE DATE – JUNE 26, 2020

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 55 (Sub-No. 801X)

**CSX Transportation, Inc. – Abandonment Exemption – in Greenbrier and Fayette
Counties, W. Va.**

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 approximately 6.39 miles of rail line in Greenbrier and Fayette Counties near Rainelle, West Virginia. The 6.39 miles of rail line proposed for abandonment extends from milepost CAF 20.61 to milepost CAF 27.0 (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 Surface Transportation Board (Board) previously granted CSXT authority to abandon the mileage that makes up the Line in two separate proceedings in 2017. In Docket No. AB 55 (Sub-No. 768X), the Board granted CSXT authority to abandon an approximately 6-mile rail line between milepost CAF 21.0 and milepost CAF 27.0. In Docket No. AB 55 (Sub-No. 776X), the Board granted CSXT authority to abandon an approximately 0.41-mile rail line between milepost CAF 20.58 and milepost CAF 21.0. CSXT states that the Line includes all of the rail line from AB 55 (Sub-No. 768X) and most of the rail line from AB 55 (Sub-No.776X).

Notices of Interim Trail Use (NITUs) were issued in both proceedings and have expired. CSXT states that it still has a common carrier obligation over the Line and is seeking renewed abandonment authority. CSXT indicates that it has reached a trail use agreement with Greenbrier and Fayette Counties, subject to the Board granting abandonment authority and the issuance of a NITU.

ENVIRONMENTAL REVIEW

CSXT submitted a combined environmental and historic report (E&H Report) that concludes the quality of the human environment will not be affected significantly as a result of

the abandonment, including salvage. CSXT served the E&H 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)].¹ 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 for at least two years, and any overhead traffic on the Line can and has been rerouted. Therefore, the proposed abandonment would not result in the diversion of rail 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. CSXT states that the proposed abandonment would result in the removal of rail, crossties, and possibly the upper layer of ballast. CSXT does not intend to disturb any sub-grade or sub-grade structures or to remove any bridges, trestles, culverts or tunnels.

CSXT states that it would use the existing 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 dredging or use of fill when removing the track 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) a copy of this Draft EA for its review and comment.

The West Virginia Department of Environmental Protection, Division of Water and Waste Management (WVDEP/DWWM) submitted comments stating that removal of track material would require grading which is considered construction activity. The West Virginia National Pollutant Discharge Elimination System Program (WV/NPDES) requires construction

¹ The E&H Report is available for viewing on the Board's website at <https://prod.stb.gov> by clicking "Search STB Records;" selecting "Filings" in the "Search for" dropdown menu; entering "AB" "55" "801" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The Report was filed on June 2, 2020.

site operators to obtain authorization to discharge stormwater under the WV/NPDES Construction Stormwater General Permit. Accordingly, OEA is recommending a condition requiring CSXT to consult with WVDEP/DWWM to address any required permits prior to conducting salvage.

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 eight threatened and endangered species, the Gray Bat, the Indiana Bat, the Northern Long-eared Bat, the Virginia Big-eared Bat, the Candy Darter, the Running Buffalo Clover, the Small Whorled Pogonia, and the Virginia Spiraea, that may be affected by the proposed abandonment. There is no critical habitat present in the area of the proposed abandonment for any of these species. OEA has determined that these federally listed threatened or endangered species would not be affected because of the abandonment's limited scope of salvage and the lack of critical habitat in the project area. OEA is providing USFWS a copy of this Draft EA for its review and comment.

CSXT states that the State of West Virginia does not have a Coastal Zone Management Program.

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 salvage activities to allow time for any geodetic survey markers that may be present in the right-of-way to be preserved.

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 NGS, USFWS, WVDEP/DWWM and the Corps for their review and comment.

HISTORIC REVIEW

CSXT served the E&H Report on the West Virginia State Historic Preservation Officer

(SHPO), pursuant to 49 C.F.R. § 1105.8(c).² To date, SHPO has not commented on the proposed abandonment. However, SHPO did submit comments in both proceedings granting CSXT abandonment authority for the Line in 2017. In the previous proceedings, SHPO stated that there were no historic properties along either of the line segments that make up the Line and that the Line lacked integrity and significance to be eligible for the National Register of Historic Places (National Register). OEA believes that the integrity of the Line has not changed and that there are still no National Register-eligible properties located within the right-of-way (Area of Potential Effect or APE).

Therefore, pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), 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 within the APE of the proposed abandonment. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's E&H 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://prod.stb.gov>.

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,³ to identify federally-recognized tribes which may have ancestral connections to the project area. The search indicated that the Catawba Indian Nation, the Monacan Indian Nation, the Eastern Band of Cherokee Indians, and the Eastern Shawnee Tribe of Oklahoma 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 Draft EA to these tribes for their review and comment.

² 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).

³ U.S. Department of Housing and Urban Development (<https://egis.hud.gov/tdat/>) (last visited 6/19/20).

CONDITIONS

OEA recommends that the following conditions be imposed on any decision granting abandonment authority:⁴

1. Prior to commencement of any salvage activities, CSX Transportation, Inc. shall consult with the West Virginia Department of Environmental Protection, Division of Water and Waste Management to address any required permits.
2. CSXT Transportation, Inc. shall notify the National Geodetic Survey at NGS.Infocenter@noaa.gov at least 90 days prior to beginning salvage activities.

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.⁵

⁴ 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.

⁵ Board decisions are available for viewing on the Board's website at <https://prod.stb.gov> by clicking "Search STB Records;" selecting "Decisions" in the "Search for" dropdown menu;

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.⁶

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

As of March 17, 2020, all filings and other submissions should be submitted electronically through the Board's website at <https://prod.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 Danielle Gosselin by email at danielle.gosselin@stb.gov or by phone at 202-245-0300.

Date made available to the public: June 26, 2020.

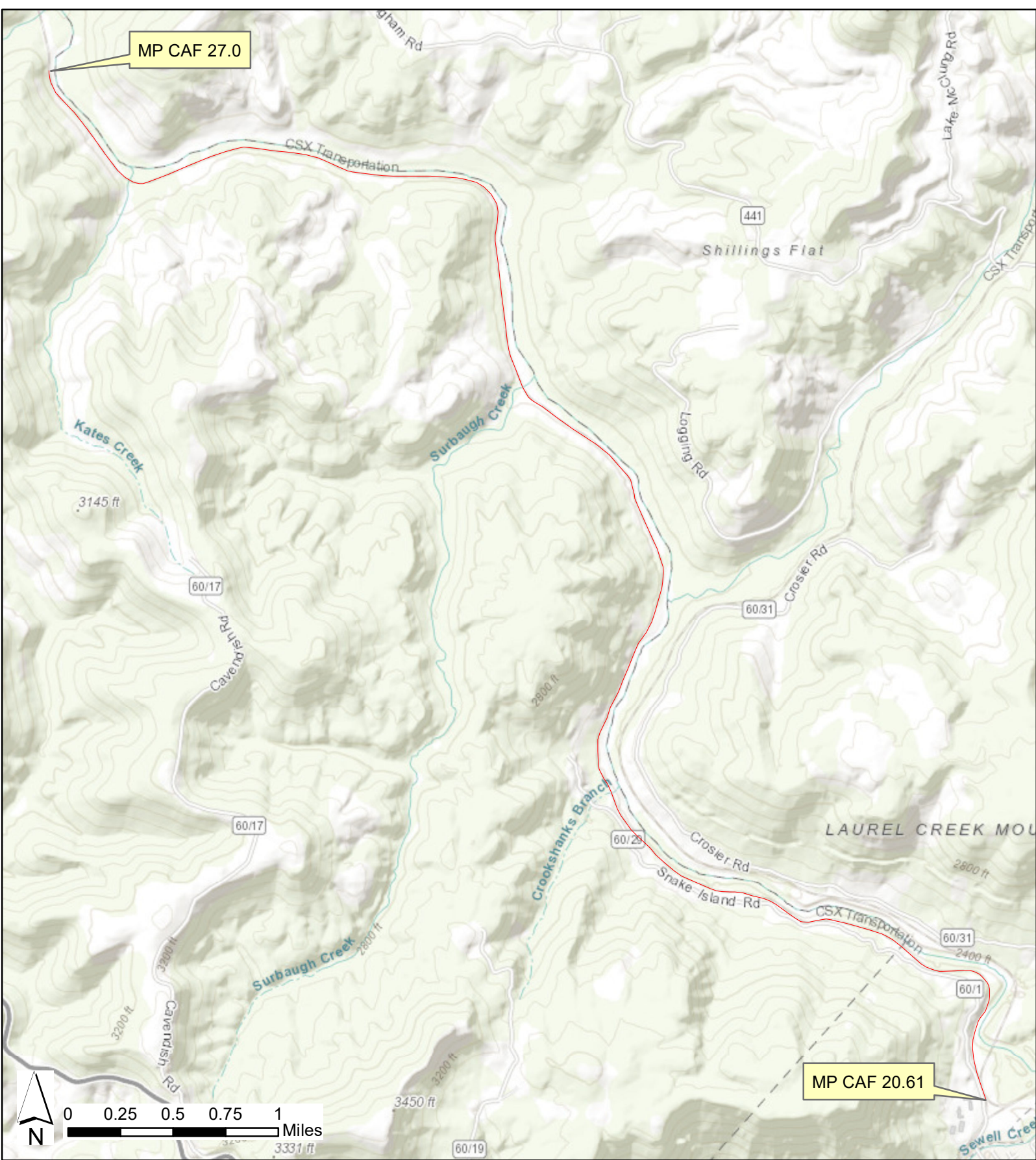
Comment due date: July 10, 2020.

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

Attachment

entering "AB" "55" "801" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

⁶ Id.



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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