

**51124
OEA**

SERVICE DATE – FEBRUARY 24, 2022

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 55 (Sub-No. 806X)

**CSX Transportation, Inc.
–Abandonment Exemption–
In Erie County, Pa.**

BACKGROUND

In this proceeding, CSX Transportation, Inc. (CSXT), is seeking exemption under 49 U.S.C. § 1152.50 from the prior approval requirements of 49 U.S.C. § 10903 in connection with the abandonment of a 0.5-mile rail line that runs between Val Sta. 1576+25 and Val Sta. 170+35 on its Great Lakes Division, Erie West Subdivision, in Erie County, PA (the Line). The Line is within the Bayfront Parkway Project (“BPP”).¹ According to CSXT, the purpose of the BPP is to enhance the connectivity between the Erie Bayfront and Erie’s downtown and residential neighborhoods and provide the infrastructure needed to support the growth of the region. Abandonment of the Line would help facilitate the goals of the BPP. 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 would 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, no passenger traffic or freight traffic has moved over the Line in the past two years, and therefore no overhead traffic needs to be rerouted over other lines. There are two public crossings on the Line that can be closed. CSXT indicates that the right-of-way is generally 100 feet in width and aerial digital images show that the topography is relatively flat. CSXT states that no streams or wetlands are crossed by the Line. The Line traverses United States Zip Code 16507. Based on information in its possession, CSXT indicates that the Line does not contain any federally granted rights-of-way. CSXT believes the Line would be suitable for interim trail use/rail banking.

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

¹ <https://bayfrontparkwayproject.com/>

the proposed abandonment of the Line, including abandonment-related salvage activities. CSXT provided the E&H Report to several appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)]² implementing the National Environmental Policy Act (NEPA). The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to CSXT, neither local rail traffic nor overhead traffic has moved on the Line in the past two years. Therefore, the proposed abandonment would not result in the diversion of rail traffic to truck traffic that could result in significant impacts to 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 abandonment-related 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 stated they intend to remove all rail, crossties, and possibly the upper layer of ballast. Any trail related structures, such as bridges, trestles, culverts and tunnels would not be salvaged.

CSXT notified Erie County by letter dated January 13, 2022 requesting comments and included a copy of the preliminary E&H Report. No comments have been received to date.

Land Use

CSXT notified the Natural Resource Conservation Service (NRCS) by letter dated January 13, 2022 requesting comments and included a copy of the preliminary E&H Report. The NRCS replied in a letter dated January 20, 2022 concurred with CSXT that no prime agricultural farmland would be affected. Accordingly, no further consultation with NRCS is recommended.

² The E&H Report is available for viewing on the Board's website at <https://www.stb.gov> by clicking "Search STB Records," selecting "Filings" in the "Search for" dropdown menu; entering "AB" "55" "806" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The E&H Report was filed on February 8, 2022.

Hazardous Materials/Spills

CSXT stated the proposed abandonment would have no detrimental effects on public health and safety. The proposed abandonment would not affect the transportation of hazardous materials. CSXT is not aware of any known hazardous waste sites or sites where there have been known hazardous materials spills on the Line. CSXT does not intend to disturb a subgrade or subgrade structures.

By letter dated February 14, 2022, the Pennsylvania Department of Environmental Protection (DEP), commented that if salvage activities qualify as earth disturbance, then CSXT must implement and maintain erosion and sediment controls in accordance with 25 Pa. Code § 102.4(b) (1). Furthermore, if those activities result in greater than one acre of earth disturbance activity, then a National Pollutant Discharge Elimination System Permit for Stormwater Discharges associated with construction activities would be required in accordance with 25 Pa. Code § 102.5. Accordingly, OEA is recommending that CSXT consult with DEP regarding potential permitting requirements.

Biological Resources

CSXT stated the proposed action would not adversely affect endangered or threatened species or areas designated as critical habitat. CSXT notified the U.S. Fish and Wildlife Service (USFWS) of the proposed abandonment by letter dated January 13, 2022 requesting assistance in determining whether the proposed abandonment would adversely affect endangered or threatened species or areas designated as a critical habitat and included a copy of the preliminary E&H Report. Through use of the USFWS website <https://ecos.fws.gov/ipac/>, a species list was generated by the Pennsylvania Ecological Services Field Office on January 4, 2022. The Indiana Bat, Northern Long-eared Bat, Piping Plover, Red Knot, and Monarch Butterfly may be in the area but there are no critical habitats within the project area.³ OEA has determined that these federally listed species would not be affected because none of the species would nest/hibernate or find food sources within the railroad right-of-way, and CSXT has indicated that salvage would be of limited scope. OEA is providing USFWS Pennsylvania Ecological Services Field Office a copy of this Draft EA for review.

CSXT notified the National Parks Service of the proposed abandonment by letter dated January 13, 2022 requesting assistance in identifying any potential effects on wildlife sanctuaries or refuges, National or State parks or forests and included a copy of the preliminary E&H Report. No comments have been received to date.

³ U.S. Fish and Wildlife Service, IPaC Information for Planning and Consultation Tool, <https://ecos.fws.gov> (last accessed January 4, 2022), Consultation Code: 05E2PA00-2022-SLI-0396.

Coastal Resources

By letter dated February 14, 2022, DEP, commented that the rail line is within the Lake Erie Coastal Zone and that CSXT would need a Federal Consistency concurrence from the Pennsylvania Coastal Resources Management Program under Section 307 of the Coastal Zone Management Act (16 U.S.C. § 1456, and the National Oceanic and Atmospheric Administration regulations at 15 C.F.R. Part 930. CSXT notified the Pennsylvania Coastal Resource Management Program by letter dated January 13, 2022 requesting comments and included a copy of the preliminary E&H Report. No comments have been received to date. OEA is providing Pennsylvania Coastal Resources Management Program a copy of this Draft EA for review and is recommending that CSXT consult with the Pennsylvania Coastal Zone Management Program.

Water Resources

CSXT has no plans to undertake in-stream work or dredge and/or fill any materials in connection with the proposed abandonment. CSXT requested comments from the U.S. Army Corps of Engineers (Corps) regarding the need for a Section 404 of the Clean Water Act (33 U.S.C. § 1344) permit if fill material is discharged or placed into any water bodies, including inland waterways as a result of salvage activities. To date, the Corps has not provided comments. OEA has reviewed aerial digital images of the area and believes a Corps permit is not necessary because there are no water features along the Line's right-of-way. OEA is providing the Corps' Pittsburgh Regulatory District with a copy of this Draft EA for review.

CSXT does not intend to appreciably remove or alter the contour of the roadbed underlying the rail line, and disturbed areas will be limited to the right-of-way wherever possible. OEA reviewed the Federal Emergency Management Agency flood hazard maps and believes the Line is not located in a special flood hazard area. The Pennsylvania Flood Plain Management Act of 1978 delegated the responsibility to local governmental units to adopt floodplain management regulations. OEA is providing City Council of the City of Erie with a copy of this Draft EA for review.

Air Quality and Noise

OEA believes that any air emissions associated with the limited salvage activities would be temporary and would not have a significant impact on air quality. Similarly, any noise related to salvage operations 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 Service List for

this proceeding, OEA is providing a copy of this Draft EA to USFWS Pennsylvania Ecological Service Field Office, Pennsylvania DEP, DEP Coastal Resources Management Program, Corps's Pittsburgh Regulatory District, and Erie City Council.

Historic Review

CSXT submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Pennsylvania Historical and Museum Commission (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c)^{4,5} through PA-SHARE. As of February 22, 2021, the PA SHPO requests all submissions for Environmental Review under Section 106 and the Pennsylvania History Code be made through PA-SHARE. On February 9, 2022, via PA-SHARE, the SHPO determined there would be no Adverse Effect on the following historic property located within the area of potential affect: Philadelphia and Erie Railroad, Resource No. 2010RE00089, and No Affect on archaeological resources. The SHPO project identification for this consultation is ER Project 2022PR00162.001. No further consultation is expected.

Pursuant to the Section 106 regulations of the NHPA 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 of Historic Places. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of Applicants' historic report, all relevant correspondence, and this Draft EA, which has been provided to the SHPO and made available to the public through posting on the Board's website at <https://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 Tribal Directory Assessment Tool (TDAT) to identify federally recognized Tribes that may have ancestral connections to the project area.⁶ The

⁴ 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 overiewing historic preservation at <https://stb.gov/resources/environmental/historic-preservation-overview>.

⁵ 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>.

⁶ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed February 22, 2022).

database indicated that there are five federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment. Accordingly, OEA is providing a copy of this Draft EA for review and comment to the Delaware Nation, Oklahoma, Delaware Tribe of Indians, Seneca Nation of Indians, the Seneca-Cayuga Nation, and the Tonawanda Band of Seneca.

CONDITIONS

OEA recommends that the following conditions be imposed on any decision granting abandonment authority.⁷

- To ensure appropriate consideration of the National Pollution Discharge Elimination System (NPDES) requirements, the railroad shall consult with the Pennsylvania Department of Environmental Protection prior to commencement of any abandonment-related salvage activities and shall comply with the reasonable NPDES requirements.
- 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 Pennsylvania Coastal Resources Management Program and obtain state coastal management consistency certification. 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 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 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

⁷ If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 were to be reached for the Line (or a portion thereof), compliance with this condition would not be 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.⁸

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 notice of the petition for 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.⁹

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

⁸ 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" "55" "806" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

⁹ Id.

Docket No. AB 55 (Sub-No. 806X)

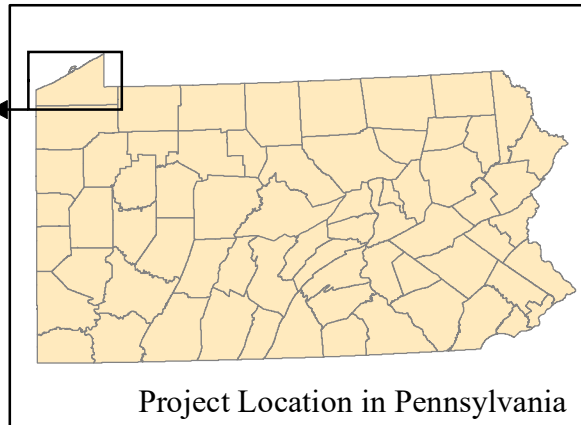
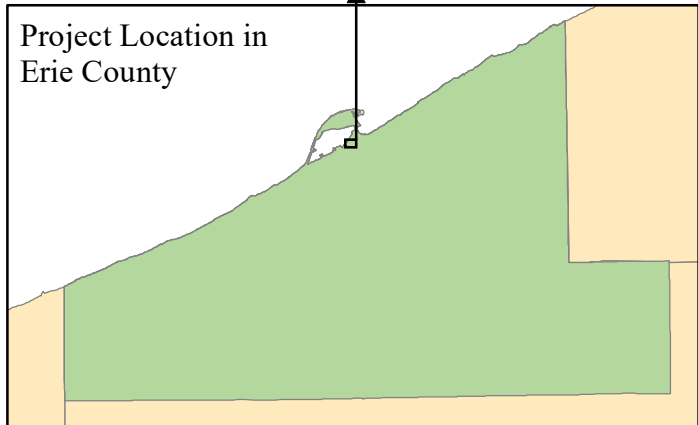
page. Brief comments can be typed in the comment field provided, and lengthier comments can be attached as Word, Adobe Acrobat or other file formats. If you have any questions, please contact Andrea E. Poole by email at Andrea.Poole@stb.gov or by phone at 202-245-0305.

Date made available to the public: February 25, 2022.

Comment due date: March 11, 2022.

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

Attachment



Docket No. AB 55 (Sub-No. 806X)

 The Line

 Rail right-of-way (approximate)

 Special Flood Hazard Area

Note: Maps produced by the Surface Transportation Board's Office of Environmental Analysis are based on information provided by the railroad applicant and are for general informational purposes only.

