

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 1315X

**New England Central Railroad, Inc. – Abandonment Exemption –
In Franklin County, Vt.**

BACKGROUND

In this proceeding, New England Central Railroad, Inc. (NECR) filed a notice with the Surface Transportation Board (Board) under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad located in Franklin County, Vermont. The rail line proposed for abandonment is an approximately 865-foot stub-ended segment of the Richford Branch and extends from milepost 0.436 (Railroad Station 23+03) (Route 38) to milepost 0.60 (Railroad Station 31+68) near Lower Newton Street and North Main Street (Route 7) in St. Albans, Vermont (the Line). A map depicting the Line in relationship to the area served is appended to this Draft Environmental Assessment (Draft EA).

NECR states that it owns a railroad operating easement over 36.5 feet of the 82.5-foot-wide corridor and that CV Properties, Inc. (CV), a non-carrier, owns the underlying real estate.¹ There are no stations on the Line. Accordingly, if this notice becomes effective, NECR would be able to salvage the track, ties, and other rail appurtenances, and CV would be able to dispose of the right-of-way.

DESCRIPTION OF THE LINE

NECR indicates that it acquired the Line in 1994 from the Central Vermont Railway, Inc. (CVR) as part of a larger transaction. The Line is part of the Richford Branch, which at one time extended 10 miles from St. Albans, across the Missisquoi River via a three-span bridge, to Sheldon Junction. CVR abandoned 9.4 miles of the Richford Branch in 1990 following a 1984 derailment that destroyed a span of the bridge. After the 1994 abandonment, NECR explains

¹ By letter dated April 5, 2022, NECR notified previously consulted agencies that the right-of-way width described in its June 1, 2021 Environmental and Historic Report (E&H Report) had been reduced from 82.5 feet to 36.5 feet. The letter clarified that CV – the owner of the underlying real estate – intends to dispose of the portion outside the 36.5-foot-wide abandonment right-of-way, and that this would not disrupt the potential for future rail service or interim trail use, should either occur.

that the Line provided industrial rail service to one customer until 2005 but that the customer's facility is no longer operational and has been demolished.

NECR indicates that the Line may be suitable for recreational trail use or other public use and confirmed in an April 13, 2022 email that it intends to seek continued use of the Line through the notice of interim trail use (NITU) process, pursuant to the National Trails Act (Trails Act), 16 U.S.C. § 1247(d) and the Board's implementing regulations at 49 C.F.R. § 1152.29. To facilitate this process, NECR states that CV is willing to sell the 36.5-foot-wide segment of the right-of-way to NECR which would enable the Line to be reactivated for common carrier rail service, if needed. NECR indicates that the State of Vermont and the City of Albans have expressed interest in acquiring the Line for public use.

The Line traverses United States Zip Code 05478 and is located in an industrial and commercial area. Based on information in its possession, NECR states that the Line does not contain any federally granted rights-of-way.

ENVIRONMENTAL REVIEW

NECR submitted a combined 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 abandonment-related salvage activities. NECR provided the E&H Report to 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)] implementing the National Environmental Policy Act (NEPA).² The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to NECR, no local traffic has moved over the Line for at least two years, and there is no need to reroute any overhead 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 the construction of new access points to the right-of-way. If

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" "1315" "0" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The E&H Report was filed on April 5, 2022.

abandonment authority is granted, NECR would salvage the rail, and other salvageable materials such as tie plates, fasteners, crossties but would retain the real estate underlying the structures as the right-of-way is in CV's ownership.

By email dated April 20, 2021, the National Geodetic Survey (NGS) indicated that no geodetic survey markers are present in the area of the proposed abandonment. Therefore, no further consultation with NGS is recommended.

By email dated April 13, 2021, the U.S. Army Corps of Engineers' New England District (Corps) concluded that salvage activities resulting from the proposed abandonment would not involve the discharge of fill material in waters of the United States. The Corps noted that it would need to review any changes to the proposed action, should they occur. Accordingly, OEA has concluded that a Corps permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344) would not be required for the proposed abandonment.

The proposed abandonment is not located within a Coastal Zone. Therefore, no further consultation is required.

By email dated May 4, 2021, the Vermont Agency of Natural Resources (ANR) commented that further review of the proposed salvage operation may be needed by its Department of Environmental Conservation, Sites Management Section (DEC) prior to initiating salvage to ensure that appropriate measures are taken during the removal and disposal of any potentially hazardous wastes, such as contaminated soil or chemically treated railroad ties. If appropriate measures are taken, ANR indicates that it does not have any concerns with the proposed abandonment. As NECR has not provided any information regarding the handling and disposal of salvaged materials, OEA is recommending a condition that would require NECR to consult with the ANR DEC prior to initiating salvage to ensure that the agency's concerns are adequately addressed.

NECR requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact the proposed abandonment could have on protected wildlife, including federally listed threatened and endangered species under the Endangered Species Act (16 U.S.C. §§ 1531-1544). To date, USFWS has not provided comments on the proposed abandonment. To identify protected species in the project area, OEA conducted a search of the USFWS Information for Planning and Consultation (IPaC) system.³ Two protected species are located in the area of the proposed abandonment. The species identified are: the threatened Northern long-eared bat (*Myotis septentrionalis*) and the candidate Monarch Butterfly (*Danaus plexippus*). The data base indicates that there is no designated critical habitat for either species. For the northern long-eared bat, any take that may occur as a result of salvage activities is not prohibited under the Endangered Species Act, Section 4(d) rule adopted for this species at 50 C.F.R. § 17.40(o). OEA has determined that the proposed abandonment would not affect these federally listed species because the Line is located in an industrial and commercial area; no trees, bridges or trestles would be removed; and NECR's proposed salvage operation, involving the removal of

³ U.S. Fish and Wildlife Service, Information, Planning, and Conservation (IPaC) System, <http://ecos.fws.gov/ipac> (last visited April 7, 2022).

the rail, ties and other surficial rail structures, is of limited scope. OEA is providing a copy of this Draft EA to USFWS New England Field Office for its review.

OEA believes that there would be no or minimal impact from any air emissions or noise on the area surrounding the proposed abandonment because limited salvage or other land disturbing activities would occur.

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 U.S. Army Corps of Engineers; U.S. Fish and Wildlife Service; and the Vermont Agency of Natural Resources for review.

HISTORIC REVIEW

NECR 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 State of Vermont, Division for Historic Preservation (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c).⁴ By letter dated June 21, 2021, the SHPO stated that the Richford Branch line is eligible for listing on the National Register of Historic Places (National Register) due to its prior association with the Missisquoi Railroad. The SHPO indicated that much of the Richford Branch remains intact as the Missisquoi Valley Trail and that any post-abandonment development of the Line, including the transfer of property, may have an adverse effect on historic resources, pursuant to the National Historic Preservation Act (NHPA). To ensure that any post-abandonment development activities are consistent with the corridor's role as a transportation resource, the SHPO has recommended that a preservation easement be established and imposed as a mitigation measure. The SHPO also indicated that it supports preserving the right-of-way for future trail use and that if a preservation easement were established, it could concur that the proposed abandonment would have no adverse effect on historic resources. Otherwise, the SHPO recommended that the area of potential effects (APE) be delineated to include the right-of-way and a width of five meters on either side of the right-of-way, so the potential adverse effects of the proposed abandonment may be evaluated.

If a rail line that is authorized for abandonment were to enter interim trail use/railbanking under the Trails Act, as may be the case here, the rail line would not be abandoned for railroad purposes, and there would be no federal undertaking subject to Section 106 of NHPA. The right-of-way would remain under the Board's jurisdiction as part of the interstate rail system subject to potential reactivation of rail service for the duration of the interim trail use.

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

To address SHPO's concerns, however, OEA is recommending that a Section 106 condition be imposed on any decision granting abandonment authority should an interim trail use/rail banking agreement not be reached or if reached, the interim trail use/rail banking agreement ends and the abandonment proceeds. The Section 106 condition requires 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 (APE) eligible for listing or listed in the National Register 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://stb.gov/resources/environmental/historic-preservation-overview/>. OEA notes that the Board cannot impose restrictive conditions, i.e., preservation easements, that would limit future development and/or other activities, as the Board's authority terminates once an abandonment is consummated.

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 to identify federally recognized tribes that may have ancestral connections to the project area.⁵ The database indicates that there are no 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.

CONDITIONS

OEA recommends that the following conditions be imposed on any decision granting abandonment authority.⁶

1. Prior to commencement of any salvage activities, New England Central Railroad, Inc. shall consult with the Vermont Natural Resources Department of Environmental Conservation (ANR DEC), Sites Management Section to ensure ANR DEC's concerns are addressed regarding the handling and disposal of any potentially hazardous waste.
2. New England Central Railroad, Inc (NECR) 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. NECR shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the State of Vermont, Division for Historic Preservation (State Historic Preservation Office or SHPO) and the public. NECR may not file its consummation notice or initiate any salvage activities related to abandonment (including

⁵ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat/> (last visited April 26, 2022).

⁶ 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 these conditions 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.

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 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.⁷

TRAILS USE

A request for a 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.⁸

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.

⁷ 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" "1315" "0" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

⁸ Id.

COMMENTS

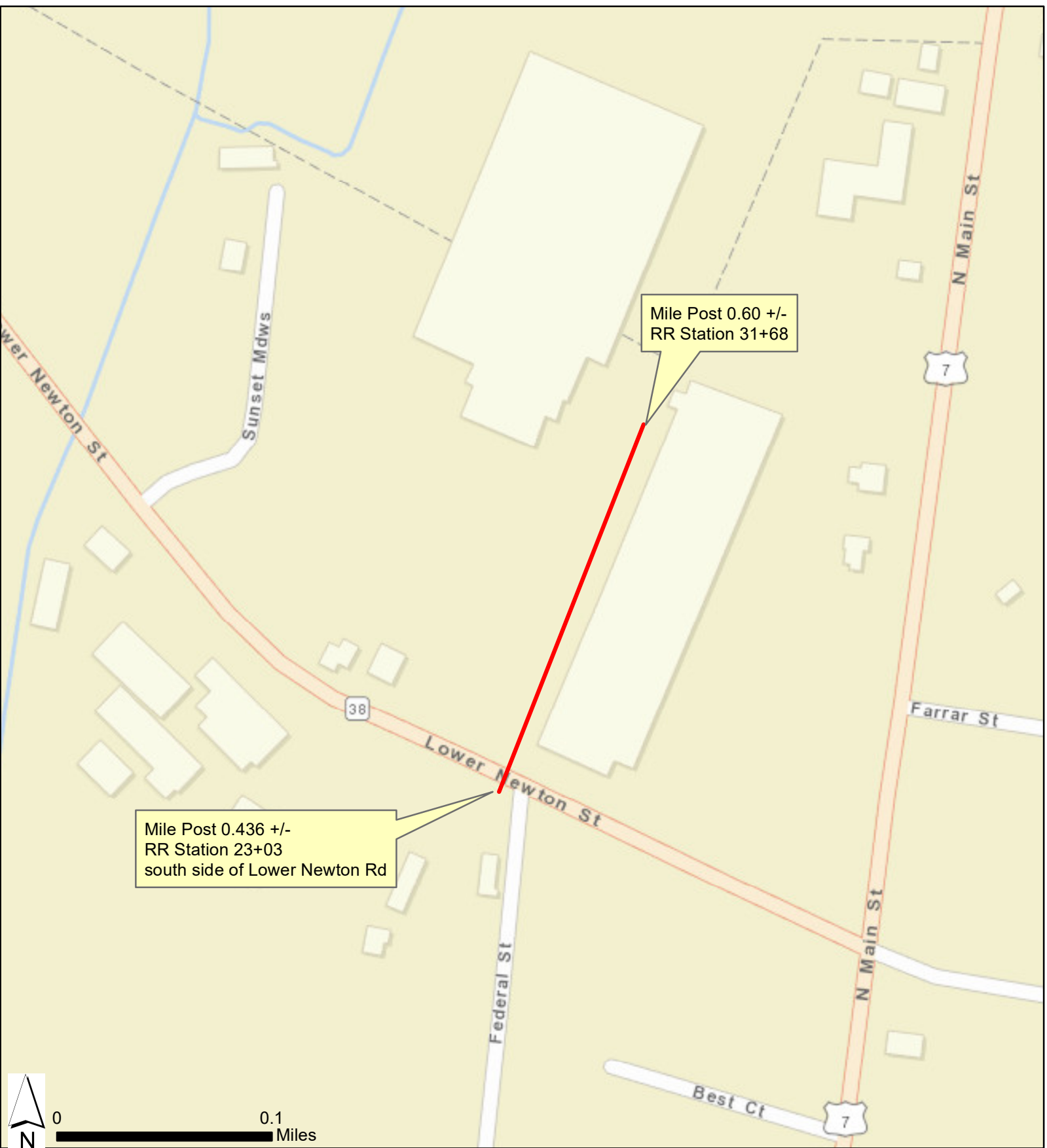
As of March 17, 2020, all filings and other submissions should be submitted electronically through the Board's website at <https://stb.gov>. To submit a comment on the Draft EA, select "File an Environmental Comment" under "Need Assistance?" on the Board's home page. Brief comments can be typed in the comment field provided, and lengthier comments can be attached as Word, Adobe Acrobat or other file formats. If you have any questions, please contact Diana Wood by email at diana.wood@stb.gov or by phone at 202-245-0302.

Date made available to the public: April 29, 2022.

Comment due date: May 17, 2022.

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

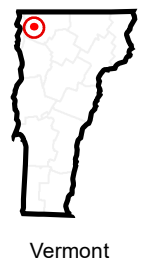
Attachment



Docket No. AB 1315X
New England Central Railroad, Inc.
Abandonment Exemption
in Franklin County, VT

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.



Vermont