

ENTERED
Office of Proceedings
August 14, 2023
Part of
Public Record

LAW OFFICES OF
LOUIS E. GITOMER, LLC

LOUIS E. GITOMER
Lou@lgraillaw.com

MELANIE B. YASBIN
Melanie@lgraillaw.com

600 BALTIMORE AVENUE, SUITE 301
TOWSON, MARYLAND 21204-4022
(410)296-2250
FAX (410) 332-0885

August 14, 2023

Ms. Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

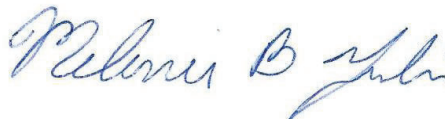
Re: **Docket No. AB-55 (Sub-No. 812X), CSX Transportation, Inc.—Abandonment
Exemption—in Cuyahoga County, OH**

Dear Ms. Brown:

Enclosed for electronic filing is a Verified Notice of Exemption for CSX Transportation, Inc. ("CSXT") to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the "Line"). The filing fee of \$4,600 has been paid via pay.gov.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely yours,



Melanie B. Yasbin
Attorney for CSX Transportation, Inc.

Enclosure

FEE RECEIVED
August 14, 2023
Surface
Transportation Board

FILED
August 14, 2023
Surface
Transportation Board

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-55 (Sub-No. 812X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–
IN CUYAHOGA COUNTY, OH

VERIFIED NOTICE OF EXEMPTION

Steven C. Armbrust, Esq.
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202
(904) 359-1229

Louis E. Gitomer, Esq.
Melanie B. Yasbin, Esq.
Law Offices of Louis E. Gitomer, LLC
600 Baltimore Avenue, Suite 301
Towson, MD 21204
(410) 296-2250
Lou@lgraillaw.com

Attorneys for: CSX TRANSPORTATION,
INC.

Dated: August 14, 2023

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-55 (Sub-No. 812X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–
IN CUYAHOGA COUNTY, OH

VERIFIED NOTICE OF EXEMPTION

CSX Transportation, Inc. (“CSXT”) files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 for CSXT to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the “Line”). No local rail traffic has moved over the Line during the past two years. Any overhead traffic on the Line can be and has been rerouted. CSXT intends to sell the Line to the City of Cleveland through the NITU process.

Based on information in the possession of CSXT, the Line does not contain federally granted rights-of-way. Any documentation in the railroad’s possession will be made available promptly to those requesting it.

1. Proposed consummation date. The proposed consummation date is October 5, 2023.
2. Certification required by 49 C.F.R. § 1152.50(b). *See* Exhibit A.
3. Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7), and (8), and (e)(4).

(a) General.

- (1) Exact name of applicant. CSX Transportation, Inc.

(2) Whether applicant is a common carrier by railroad subject to 49 U.S.C.

Subtitle IV, Chapter 105. CSXT is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(3) Relief sought. CSXT seeks to use the class exemption at 49 C.F.R. § 1152.50 to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the “Line”). There are no stations on the Line.

(4) Map. *See* Exhibit B.

(7) Name, title, and address of representative of applicant to whom correspondence should be sent. Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (410) 296-2250, Lou@lgrailaw.com.

(8) List of all United States Postal Service ZIP Codes that the line proposed for discontinuance traverses. The Line traverses U.S. Postal ZIP Codes 44113 and 44115.

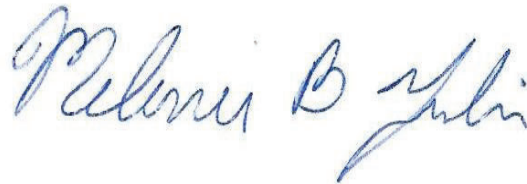
(e) Rural and community impact.

(4) Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.

CSXT believes that the property proposed for abandonment may be suitable for other purposes but may be subject to reversionary interests that may affect transfer of title for other than rail purposes.

4. The level of labor protection. The interests of any railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co. –Abandonment–Goshen*, 360 I.C.C. 91 (1979).
5. Certification. Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) and 1105.11 are attached as Exhibit C.
6. Environmental Report. See Exhibit D.
7. Historic Report. See Exhibit D.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Melanie B. Yasbin".

Steven C. Armbrust, Esq.
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202
(904) 359-1229

Louis E. Gitomer, Esq.
Melanie B. Yasbin, Esq.
Law Offices of Louis E. Gitomer
600 Baltimore Avenue, Suite 301
Towson, MD 21204
(410) 296-2250
Lou@lgraillaw.com

Attorneys for: CSX TRANSPORTATION,
INC.

Dated: August 14, 2023

EXHIBIT A-VERIFICATION AND CERTIFICATION

**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

STATE OF FLORIDA)
)
COUNTY OF DUVAL) ss.

I, Trevor Knaus, state that I am Mgr Cost & Contribution for CSX Transportation, Inc. ("CSXT"); that I am authorized to make this verification; and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated, to the best of my knowledge, information, and belief.

I hereby certify that no local freight traffic has moved over CSXT's 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH for two years prior to the date hereof and that any overhead traffic can be rerouted over other lines. Further, no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period. The foregoing certification is made on behalf of CSXT by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned.

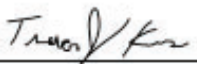
 8/1/2023

EXHIBIT B-MAP

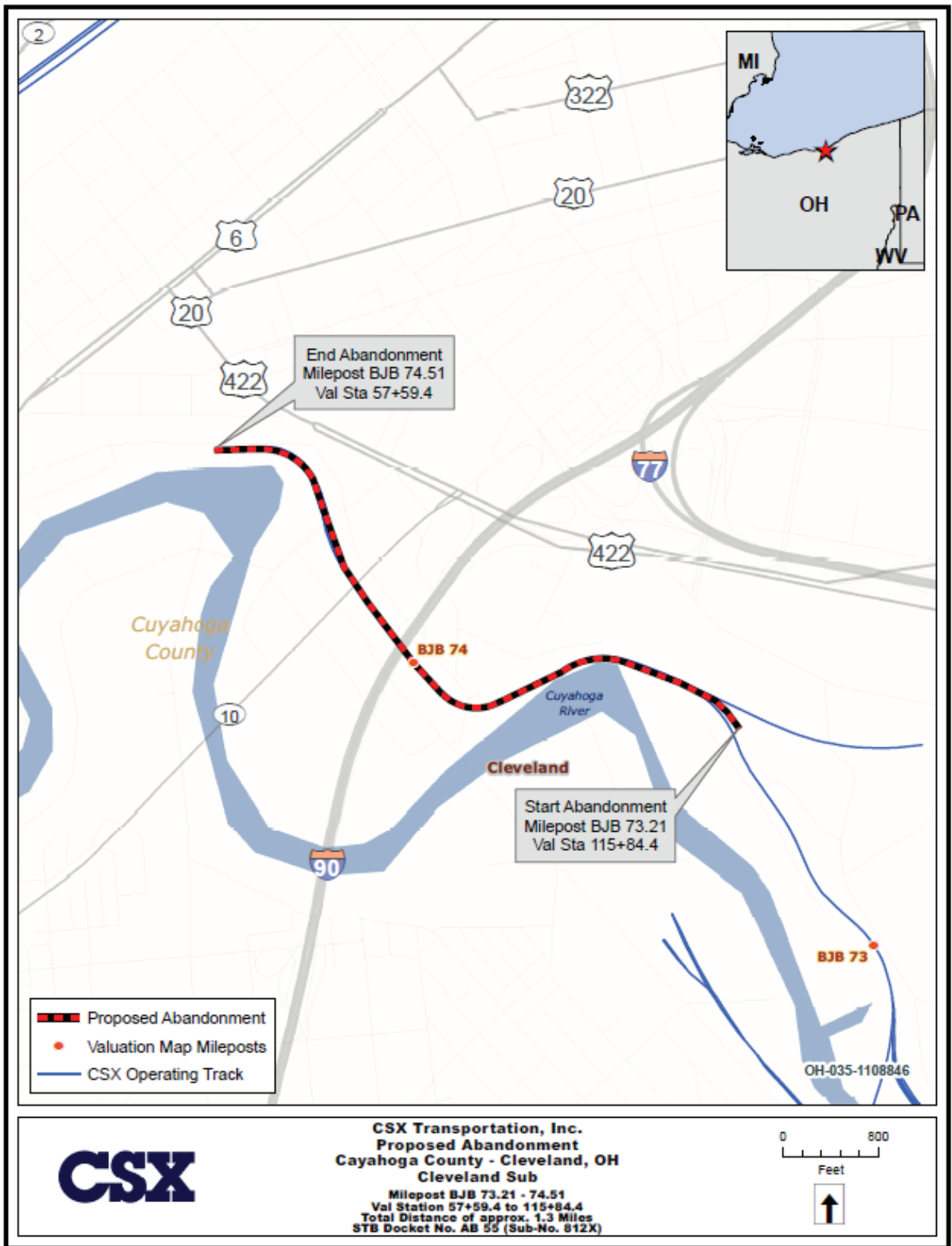


EXHIBIT C-CERTIFICATES OF SERVICE AND PUBLICATION

Pursuant to 49 C.F.R. § 1152.50 (d) (1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-55 (Sub-No. 812X) was mailed via first class mail on August 2, 2023, to the following parties:

State Public Service Commission

Ohio Public Utilities Commission
Transportation-Railroad
180 E Broad St
Columbus, OH 43215

Military Traffic Management Command

Headquarters
Military Surface Deployment and Distribution Command
Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National Defense)
1 Soldier Way, Building 1900W
Scott AFB, IL 62225
Usarmy.scott.sddc.mbx.g3-domestic-freight-services-branch@mail.mil

National Park Service

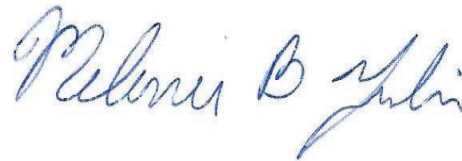
Mr. Bob Ratcliffe
Chief, Conservation and Outdoor Recreation Division
Rivers, Trails and Conservation Assistance Program National Park Service
1849 C Street, N.W. (Org Code 2220)
Washington, DC 20240

National Park Service

U.S. Department of Interior
National Park Service
Land Resources Division
1849 C Street, N.W.
Washington, DC 20240

U.S. Department of Agriculture

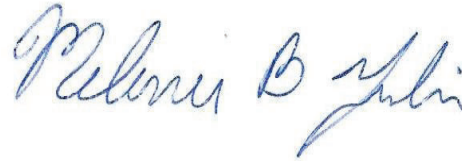
U.S. Department of Agriculture
Chief of the Forest Service
1400 Independence Avenue, S.W.
Washington, DC 20250-0003

A handwritten signature in blue ink, reading "Melanie B. Yasbin". The signature is written in a cursive style with a large initial "M" and a stylized "Y".

Melanie B. Yasbin
August 14, 2023

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-55 (Sub-No. 812X) in the following form was advertised on August 10, 2023, in the Daily Legal News, a newspaper of general circulation in Cuyahoga County, OH, as required by 49 C.F.R. § 1105.7(c) and .12.



Melanie B. Yasbin
August 14, 2023

Notice of Intent to Abandon

CSX Transportation, Inc. (“CSXT”) gives notice that on or about August 14, 2023, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting the abandonment of approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH. The proceeding will be docketed as No. AB-55 (Sub-No. 812X).

The Board’s Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the OEA, Surface Transportation Board, Washington, DC 20423 or by calling that office at (202) 245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board’s Section of Administration, Office of Proceedings, 395 E Street, SW, Washington, DC 20423–0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant’s representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board’s Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Copies of any comments or requests for conditions should be served on the applicant’s representative: Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (410)296-2250, Lou@lgrailaw.com.

STATE OF OHIO }
COUNTY OF CUYAHOGA, } SS.

Publication Fee: \$296.65

Caption: Notice of Intent to Abandon -
CSX Transportation, Inc., Docket
No. AB-55 (Sub-No. 812X)

I, Lisa A. Cech, being duly sworn upon my oath, depose and say that I am the agent of the DAILY LEGAL NEWS, and that the advertisement attached hereto was published in the DAILY LEGAL NEWS, a daily newspaper of general circulation, printed in the City of Cleveland, County of Cuyahoga, Ohio for a period of one time, on the 10th day of August A.D. 2023.

Lisa A. Cech

Sworn to and subscribed in my presence this
10th day of August A.D. 2023.

Cynthia E. Condol

NOTARY PUBLIC

CYNTHIA E. CONDOL, Notary Public
STATE OF OHIO (Cuyahoga County)
My Commission Expires December 26, 2023



LEGAL NOTICE
Notice of Intent to Abandon
CSX Transportation, Inc. ("CSXT") gives notice that on or about August 14, 2023, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting the abandonment of approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH. The proceeding will be docketed as No. AB-55 (Sub-No. 812X).
The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 35 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the OEA, Surface Transportation Board, Washington, DC 20423 or by calling that office at (202) 245-0295.
Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, SW, Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative: Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (410) 296-2250, Lou@lgrailaw.com.
Aug10, 2023

Daily Legal News
2935 Prospect Avenue
Cleveland, Ohio 44115
(216) 696-3322

PROOF OF PUBLICATION

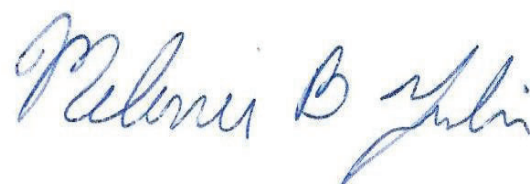
EXHIBIT D– COMBINED ENVIRONMENTAL AND HISTORIC REPORT

ENVIRONMENTAL REPORT CERTIFICATE OF SERVICE

Pursuant to the requirements of 49 C.F.R. § 1105.7, the undersigned hereby certifies that a copy of the Combined Environmental and Historic Report in Docket No. AB-55 (Sub-No. 812X) was mailed via first class mail and electronic mail where available on July 26, 2023, to the following parties:

John Wilson State Conservationist United States Department of Agriculture Natural Resources Conservation Service 200 N High St Rm 522 Columbus, OH 43215-2479 john.wilson@usda.gov	Bert Frost, Regional Director National Park Service 601 Riverfront Drive Omaha, NE 68102-4226
Environmental Protection Agency Region 5 77 W Jackson Blvd Chicago, IL 60604 r5hotline@epa.gov	U.S. Fish & Wildlife Services Ohio Ecological Services Field Office 4625 Morse Road, Suite 104 Columbus, OH 43230-8355
U.S. Army Corps of Engineers Buffalo District 1776 Niagara Street Buffalo, NY 14207 buffalo-iis@usace.army.mil	National Geodetic Survey RRAE@noaa.gov
Office of Coastal Management 2514 Cleveland Road East Huron, Ohio 44839 419-626-7980 coastal@dnr.ohio.gov	Mayor Justin M. Bibb 601 Lakeside Ave, Room 227 Cleveland, OH 44114 mayorbibb@clevelandohio.gov

Jessica Kuenzli Deputy Director, Business and Regulatory Affairs Ohio Environmental Protection Agency jessica.kuenzli@epa.ohio.gov	Mr. Chris Ronayne Cuyahoga County Executive 2079 East Ninth Street Cleveland, OH 44115
--	---

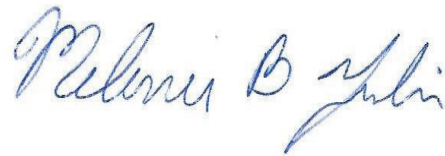
A handwritten signature in blue ink, reading "Melanie B. Yasbin". The signature is fluid and cursive, with the first name "Melanie" being the most prominent.

Melanie B. Yasbin
August 14,, 2023

HISTORIC REPORT CERTIFICATE OF SERVICE

Pursuant to the requirements of 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Combined Environmental and Historic Report in Docket No. AB-55 (Sub-No. 812X) was submitted via the New York State online CRIS system on July 26, 2023, to the following parties:

Ohio History Connection
800 E. 17th Ave.
Columbus, OH 43211
section106@ohiohistory.org



Melanie B. Yasbin
August 14, 2023

COMBINED ENVIRONMENTAL AND HISTORIC REPORT (“CEHR”)
(49 C.F.R. 1105.7 and 1105.8)

Docket No. AB-55 (Sub-No. 812X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–
IN CUYAHOGA COUNTY, OH

Dated: August 14, 2023

ENVIRONMENTAL REPORT

(1) Proposed Action and Alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

CSX Transportation, Inc., (“CSXT”) proposes to abandon the approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the “Line”). The Line runs through the U.S. Postal Zip Codes 44113 and 44115.

CSXT intends to sell the Line to the City of Cleveland through the NITU process. Abandonment of the Line will result in the removal of the rail, crossties, and possibly the upper layer of ballast. CSXT does not intend to disturb any sub grade or sub grade structures. Any trail related structures, such as bridges, trestles, culverts and tunnels will not be salvaged. Finally, the operations and maintenance of the Line will cease.

The only alternative to a full abandonment would be for CSXT not to abandon the Line.

A map of the proposed abandonment is attached hereto as Exhibit 1.

(2) Transportation System. Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

There is no passenger traffic on the Line to be diverted to other modes as a result of the proposed abandonment. There is no freight traffic on the Line to be diverted to motor carrier. The proposed abandonment should have no adverse effects on regional or local highway systems and traffic patterns.

(3) Land Use. (i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies. (ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land. (iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by 1105.9. (iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.

(i) CSXT considers the proposed abandonment of the Line to be consistent with existing land use plans. The purpose of this abandonment is to sell the Line to the City of Cleveland for trail use under the NITU process. CSXT notified Cuyahoga County by letter dated July 26, 2023 (See Exhibit 2) requesting comments and included a copy of the preliminary CEHR. A copy of this Preliminary CEHR was also mailed to the appropriate local and state agencies for their information and further comment. By email dated August 14, 2023, CSXT received a letter on behalf of Cuyahoga County Executive Ronayne's office stating that it "is aware and supportive of a feasibility study currently being led by NOACA" and that the study is exploring the "possible extension of the Cuyahoga Valley Scenic Railroad rail service, connecting the Cuyahoga Valley National Park to Downtown Cleveland." (See Exhibit 2).

(ii) CSXT does not believe that there is any prime agricultural land that will be affected. CSXT notified the United States Department of Agriculture ("USDA") Natural Resources Conservation Service (the agency succeeding to the responsibilities of the Soil Conservation Service) of the proposed abandonment by letter dated July 26, 2023 (See Exhibit 2) requesting

comments and included a copy of the preliminary CEHR. No comments have been received to date.

(iii) CSXT notified the Coastal Management Program by letter dated July 26, 2023 (See Exhibit 2) requesting comments and included a copy of the preliminary CEHR. By email received August 11, 2023, the Coastal Programs Administrator, Office of Coastal Management, Ohio Department of Natural Resources stated that it had no comment on the proposed activity. (See Exhibit 2).

(iv) CSXT believes the Line would be suitable for interim trail use/rail banking.

(4) Energy. (i) Describe the effect of the proposed action on transportation of energy resources. (ii) Describe the effect of the proposed action on recyclable commodities. (iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why. (iv) If the proposed action will cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

(i) The proposed abandonment will have no effect on the ability to transport energy resources.

(ii) The proposed abandonment will have no effect on the transportation of recyclable commodities.

(iii) The proposed abandonment will not change the use of railroad transportation over the line as CSX doesn't currently ship over the line.

(iv) The proposed abandonment will not cause the diversion of more than 1,000 rail carloads a year; or an average of 50 rail carloads per mile per year for any part of the line segments of rail traffic to motor carriage.

(5) Air. (i) If the proposed action will result in either: (A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or (B) an increase in rail yard activity of at least 100 percent (measured by carload activity), or (C) an average increase in truck traffic of

more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. § 10901 (or § 10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in sub-section (5)(i)(A) will apply. (ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either: (A) an increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line; (B) an increase in rail yard activity of at least 20 percent (measured by carload activity); or (C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505), or a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply. (iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

(i) The proposed abandonment will not result in meeting or exceeding the specified thresholds.

(ii) The proposed abandonment will not result in meeting or exceeding the specified thresholds.

(iii) The proposed abandonment will not affect the transportation of ozone depleting materials.

(6) Noise. If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause: (i) an incremental increase in noise levels of three decibels Ldn or more; or (ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

Not applicable.

(7) Safety. (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings). (ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with

accidental spills; and the likelihood of an accidental release of hazardous materials. (iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

(i) The proposed abandonment will have no detrimental effects on public health and safety. There are no public or private at-grade crossings on the Line.

(ii) The proposed abandonment will not affect the transportation of hazardous materials.

(iii) CSXT is not aware of any known hazardous waste sites or sites where there have been known hazardous materials spills on the Line.

(8) Biological Resources. (i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects. (ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

(i) CSXT does not believe that the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat. CSXT has notified the U.S. Fish and Wildlife Service (“USF&W”) of the proposed abandonment by letter dated July 26, 2023 (See Exhibit 2) requesting assistance in determining whether the proposed abandonment will adversely affect endangered or threatened species or areas designated as a critical habitat and included a copy of the preliminary CEHR.

Through use of the USF&W website <https://ecos.fws.gov/ipac/> a letter listing threatened, and endangered species was generated on July 25, 2023, finding the Indian Bat, Northern Long-eared Bat, the Tricolored Bat, the Piping Plover, the Red Knot, and the Monarch Butterfly may be in the area but that there are no critical habitats within the project area under USF&W’s jurisdiction. (See Exhibit 2). By letter dated August 8, 2023, the USF&W stated that it does “not anticipate adverse effects to federally endangered, threatened, or proposed species or proposed or designated critical habitat.” (See Exhibit 2).

(ii) CSXT does not believe any wildlife sanctuaries or refuges, National or State parks or forests would be adversely affected by the proposed abandonment.

CSXT has notified the National Parks Service of the proposed abandonment by letter dated July 26, 2023 (See Exhibit 2) 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 CEHR. No comments have been received to date.

(9) Water. (i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies. (ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects. (iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action.

(i) CSXT is confident that the proposed abandonment will be consistent with applicable water quality standards. CSXT notified the State Environmental Protection Agency (“SEPA”), and the United States Environmental Protection Agency (“USEPA”) by letters dated July 26, 2023 (See Exhibit 2) requesting assistance in identifying any potential effects on water quality standards and included a copy of the preliminary CEHR. No comments have been received to date.

(ii) CSXT believes that no permits under section 404 of the Clean Water Act are required for the proposed abandonment and that no designated wetlands or 100-year flood plains will be affected by the proposed abandonment. Upon receiving abandonment authority, removal of material will be accomplished by use of the right-of-way for access. No new access roads are contemplated. CSXT does not intend to disturb any of the underlying roadbed or perform any activities that would cause sedimentation or erosion of the soil and does not anticipate any dredging or use of fill in the removal of the track material. CSXT will transport crossties and/or

other debris away from the Line and will not discard them along the right-of-way or place or leave them in streams or wetlands, or along the banks of such waterways. Also, during track removal, appropriate measures will be implemented to prevent or control spills from fuels, lubricants or any other pollutant materials from entering any waterways. Based upon this course of action, CSXT does not believe a permit under Section 404 of the Clean Water Act will be required.

CSXT notified the U.S. Army Corps of Engineers by letter dated July 26, 2023 (See Exhibit 2) requesting assistance in identifying whether permits under section 404 of the Clean Water Act are required for the proposed abandonment and that no designated wetlands or 100-year flood plains will be affected by the proposed abandonment and included a copy of the preliminary CEHR. No comments have been received to date.

(iii) CSXT believes that no permit under section 402 of the Clean Water Act would be required for the abandonment. CSXT notified the SEPA and the USEPA by letter dated July 26, 2023 (*See* Exhibit 2) requesting assistance in identifying whether permit under section 402 of the Clean Water Act would be required for the abandonment and included a copy of the preliminary CEHR. No comments have been received to date.

(10) Proposed Mitigation. Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

CSXT does not expect any adverse environmental impact from the proposed abandonment and, therefore, sees no need for any mitigating actions. CSXT will, of course, adhere to any remedial actions required by the Board.

HISTORIC REPORT

1. A U.S.G.S. topographic map (or alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action;

U.S. Geological Survey Maps have been supplied to the State Department of Archeology and Historic Preservation (*See Exhibit 3*) along with this preliminary CEHR.

2. A written description of the right of way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area;

The right-of-way width along this right-of-way is approximately 60 feet wide. The Line begins east of Canal Road. The Line runs parallel to the Cuyahoga River and crosses under Canal Road. It then turns north and crosses under the NS railroad bridge. Continuing northwest, the Line passes under I-90 and continues under Carnegie Ave. and Eagle Ave. The Line then runs parallel to the Cuyahoga River and ends before the Riverview South parking lot.

3. Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area;

There are no CSXT owned structures that are 50 years old or older than are eligible for listing in the National Register that are part of the proposed action. The Line passes under four (4) roadway overpasses, listed below. The Line also passes under a Norfolk Southern Railroad bridge. Abandonment of the Line will not affect these structures. CSXT has included photographs and the locations of these overpasses for your information.

Milepost BJB 74.25-Stones Levee Overhead Bridge owned by Cleveland, OH.

Milepost BJB 74.00-Carnegie Ave Overhead Bridge owned by the State of Ohio.

Milepost BJB 73.80- I90 Overhead Bridge owned by Cleveland, OH

Milepost BJB 73.60-Norfolk Southern Overhead Bridge owned by Norfolk Southern Railroad.

Milepost BJB 73.59-Canal Road Overhead Bridge owned by Cleveland, OH.

4. The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known;

CSXT does not own any of the structures that go over the Line and does not have additional information on them.

5. A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action;

Cleveland Subdivision was originally part of the Valley Railway company which was formed in 1871 and moved passengers between Cleveland and Akron. It also carried commodities including coal, copper, ore, iron ore, lime, sand and stone. The railroad entered Cleveland from the south between Bradley Rd. and the Cuyahoga River. It ran northward along the river and through the Flats to Whiskey Island for a total of 7 miles. The original Whiskey Island railyard in downtown Cleveland was replaced in 1906 with the current Clark Avenue yard located on West 3rd Street. Due to stiff competition from Northern Ohio Interurban Railroad and an expensive 3-mile addition to connect to Newburgh “steel industry” the railroad was forced to file for bankruptcy in 1895.

The assets were acquired by the Cleveland, Terminal and Valley Railway in 1895. By 1909 the Baltimore and Ohio RR took over the CT&V operations and at the time, built the longest rolling lift bridge in the World at 230ft. The bridge was constructed by King Bridge Company and is currently located at Quigley Road and West 3rd street. The B&O dominated the passenger and rail service for the next 20 years between Cleveland and Akron but by 1930’s the increased availability of the automobile and trucks caused business to dry up. By June 1934 the B&O moved its passenger station to the new “Terminal Tower” and converted the Canal Road passenger station into a freight depot. The Railroad was later acquired by Chesapeake and Ohio Railroad in 1963, then became part of Chessie and Seaboard Systems in 1973. Chessie and Seaboard Systems became part of CSX Transportation in 7/1/1986.

7. An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic

Places (36 C.F.R. 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

CSXT believes that the Line is not unusual or noteworthy for inclusion on the National Register of Historic Places. It is also CSXT's opinion that there are no archeological resources or other railroad related historic properties in the project area. Moreover, there are no bridges or structures on the Line that are 50 years old or older.

8. A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic waste), and the surrounding terrain.

Based on a review of its records, CSXT believes that there are no known subsurface ground disturbances or fill, or environmental conditions that might affect the archeological recovery of any potential resources. The Line was disturbed during construction by cuts and fill and any archeological resources that may have been located in the proposed project area would have been affected at that time versus during the proposed salvage operations associated with rail removal.

9. Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specific non railroad owned properties or groups of properties immediately adjacent to the railroad right-of-way: photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the location and type of the site (*i.e.* prehistoric or native American).

CSXT does not foresee the likelihood that any additional information will need to be supplied in association with the proposed abandonment other than that information previously

submitted. But, if any additional information is requested, CSXT will promptly supply the necessary information.

CSXT notified the Ohio History Connection on July 26, 2022 (*See Exhibit 2*) requesting assistance to determine whether there are any archeological resources or any other previously unknown historic properties and included a copy of the preliminary CEHR. No comments have been received to date.

EXHIBIT 1 – MAP

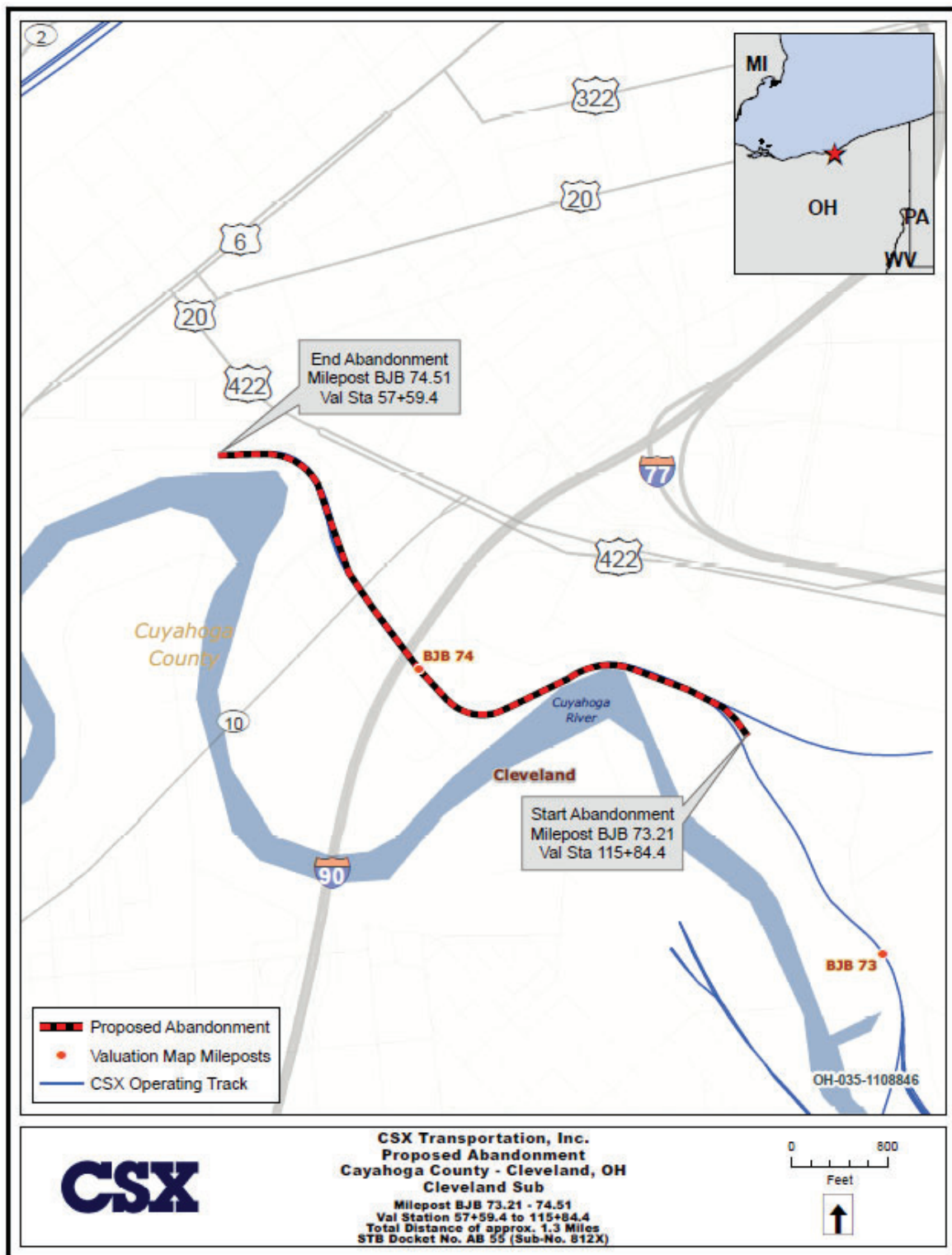


EXHIBIT 2 – LETTERS (WITHOUT MAPS)

Jacksonville, Florida 32202
Phone (904) 366-4457
Email: Kevin_Hardee@csx.com

Kevin Hardee
Joint Facilities

July 26, 2023

Mayor Justin M. Bibb
601 Lakeside Ave, Room 227
Cleveland, OH 44114
mayorbibb@clevelandohio.gov

Re: STB Docket No. AB-55 (Sub-No. 812X), CSX Transportation, Inc.—Abandonment
Exemption—in Cuyahoga, OH

Dear Madam/Sir:

CSX Transportation, Inc., (“CSXT”) proposes to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the “Line”). The Line runs through the U.S. Postal Zip Codes 44113 and 44115.

Upon receipt of abandonment authority from the Surface Transportation Board (the “Board”), CSXT will consummate the abandonment and abandon the Line.

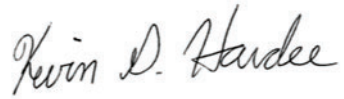
This action requires Board environmental and historic review under 49 C.F.R. 1105.6(b)(2). A portion of CSXT’s Combined Environmental and Historic Report (CEHR) must be:

“Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, please state whether the proposed action is consistent with existing land use plans. Please describe any inconsistencies.”

CSXT would appreciate your comments regarding current and future land use in relationship to the Line. Enclosed is CSXT’s Preliminary CEHR with CSXT’s analysis of current and future land use. Please respond by email to Kevin_Hardee@csx.com or by mail to the above address, within 20 days of the date of this letter so that CSXT can include and analyze your comments in its Final CEHR.

Also enclosed is the distribution list of all parties who have been requested to comment on the CEHR. If you have any questions, please feel free to call or email me.

Sincerely,

A handwritten signature in black ink that reads "Kevin D. Hardee". The signature is written in a cursive style with a large, stylized 'K' and 'H'.

Kevin Hardee
Enclosures (3)



Jacksonville, Florida 32202
Phone (904) 366-4457
Email: Kevin_Hardee@csx.com

Kevin Hardee
Joint Facilities

July 26, 2023

Mr. Chris Ronayne
Cuyahoga County Executive
2079 East Ninth Street
Cleveland, OH 44115

Re: STB Docket No. AB-55 (Sub-No. 812X), CSX Transportation, Inc.—Abandonment
Exemption—in Cuyahoga, OH

Dear Madam/Sir:

CSX Transportation, Inc., (“CSXT”) proposes to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the “Line”). The Line runs through the U.S. Postal Zip Codes 44113 and 44115.

Upon receipt of abandonment authority from the Surface Transportation Board (the “Board”), CSXT will consummate the abandonment and abandon the Line.

This action requires Board environmental and historic review under 49 C.F.R. 1105.6(b)(2). A portion of CSXT’s Combined Environmental and Historic Report (CEHR) must be:

“Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, please state whether the proposed action is consistent with existing land use plans. Please describe any inconsistencies.”

CSXT would appreciate your comments regarding current and future land use in relationship to the Line. Enclosed is CSXT’s Preliminary CEHR with CSXT’s analysis of current and future land use. Please respond by email to Kevin_Hardee@csx.com or by mail to the above

address, within 20 days of the date of this letter so that CSXT can include and analyze your comments in its Final CEHR.

Also enclosed is the distribution list of all parties who have been requested to comment on the CEHR. If you have any questions, please feel free to call or email me.

Sincerely,

A handwritten signature in cursive script that reads "Kevin D. Hardee".

Kevin Hardee
Enclosures (3)

FW: [E] RE: CSX Exemption Letter



Hardee, Kevin <Kevin_Hardee@csx.com>
To: Melanie Yasbin

Reply Reply All Forward

Mon 8/14/2023 8:49 AM



Start your reply all with: [Received, thank you.](#) [Thank you!](#) [Got it, thanks!](#) [Feedback](#)

Good morning Mr. Hardee,

On behalf of Cuyahoga County Executive Ronayne's office, I'm responding to the letter "Re: STB Docket No. AB-55 (Sub-No. 812X), CSX Transportation, Inc. – Abandonment Exemption – in Cuyahoga, OH."

Regarding current and future land use in relationship to the 1.3 mile CSXT rail line proposed for abandonment, Cuyahoga County is aware and supportive of a feasibility study currently being led by NOACA, our regional metropolitan planning agency (the Northeast Ohio Areawide Coordinating Agency). The feasibility study is exploring the possible extension of the Cuyahoga Valley Scenic Railroad rail service, connecting the Cuyahoga Valley National Park to Downtown Cleveland.

Additionally, Cuyahoga County participated as a stakeholder in the City of Cleveland's [Vision for the Valley](#) planning study, that includes land use recommendations for the areas surrounding the Line.

Please be in touch if there are any questions. We appreciate the opportunity to share comments.

Thank you,

Annie Pease
Senior Advisor, Transportation
Cuyahoga County Executive Office
2079 E. 9th Street
Cleveland, OH 44115
Mobile: 216-543-2911
Desk: 216-443-7984



Jacksonville, Florida 32202
Phone (904) 366-4457
Email: Kevin_Hardee@csx.com

Kevin Hardee
Joint Facilities

July 26, 2023

Environmental Protection Agency
Region 5
77 W Jackson Blvd
Chicago, IL 60604
r5hotline@epa.gov

Re: STB Docket No. AB-55 (Sub-No. 812X), CSX Transportation, Inc.—Abandonment
Exemption—in Cuyahoga, OH

Dear Madam/Sir:

CSX Transportation, Inc., (“CSXT”) proposes to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the “Line”). The Line runs through the U.S. Postal Zip Codes 44113 and 44115.

Upon receipt of abandonment authority from the Surface Transportation Board (the “Board”), CSXT will consummate the abandonment and abandon the Line.

This action requires Board approval and Federal Regulations 49 C.F.R. 1105.7 (e)(9) (i) and (iii) require that CSXT develop a response to the following statements:

(i) *“Based on consultation with State Water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.”*

(iii) *“State whether permits under Section 402 of the Clean Water Act 33 U.S.C. 1342 are required for the proposed action.”*

There are no refueling or maintenance areas within the project area. The removal of CSXT's rail material will be accomplished by use of the right of way for access, along with existing public and private crossings, and no new access roads are contemplated. CSXT does not intend to disturb any of the underlying roadbeds and do not anticipate any dredging or use of fill in the removal of the track material. The cross-ties and/or other debris will be transported away from the rail line and will not be discarded along the right of way, nor be placed or left in streams or wetlands, or along the banks of such waterways. During track removal, appropriate measures will be implemented to prevent or control spills from fuels, lubricants or any other pollutant materials from entering any watercourses.

Based upon the above described actions, CSXT would appreciate receiving your concurrence with its position that the proposed project is consistent with applicable Federal, State and local water quality standards, and that no permits under Section 402 are required at this time. As further information, CSXT would appreciate your comments regarding current and future land use in relationship to the Line. Any questions can be sent electronically to Kevin_Hardee@CSX.com by email or through the United States Postal Service (USPS).

Enclosed are a distribution list of all parties that have been copied on the proposed action, a map of the proposed location and the preliminary Combined Environmental and Historical Report for the line. If you have any questions, please feel free to call or email me.

Sincerely,

A handwritten signature in cursive script that reads "Kevin D. Hardee".

Kevin Hardee
Enclosures (3)



Jacksonville, Florida 32202
Phone (904) 366-4457
Email: Kevin_Hardee@csx.com

Kevin Hardee
Joint Facilities

July 26, 2023

Jessica Kuenzli
Deputy Director,
Business and Regulatory Affairs
Ohio Environmental Protection Agency
jessica.kuenzli@epa.ohio.gov

Re: STB Docket No. AB-55 (Sub-No. 812X), CSX Transportation, Inc.—Abandonment
Exemption—in Cuyahoga, OH

Dear Madam/Sir:

CSX Transportation, Inc., (“CSXT”) proposes to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the “Line”). The Line runs through the U.S. Postal Zip Codes 44113 and 44115.

Upon receipt of abandonment authority from the Surface Transportation Board (the “Board”), CSXT will consummate the abandonment and abandon the Line.

This action requires Board approval and Federal Regulations 49 C.F.R. 1105.7 (e)(9) (i) and (iii) require that CSXT develop a response to the following statements:

(i) *“Based on consultation with State Water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.”*

(iii) *“State whether permits under Section 402 of the Clean Water Act 33 U.S.C. 1342 are required for the proposed action.”*

There are no refueling or maintenance areas within the project area. The removal of CSXT’s rail material will be accomplished by use of the right of way for access, along with

existing public and private crossings, and no new access roads are contemplated. CSXT does not intend to disturb any of the underlying roadbeds and do not anticipate any dredging or use of fill in the removal of the track material. The crossties and/or other debris will be transported away from the rail line and will not be discarded along the right of way, nor be placed or left in streams or wetlands, or along the banks of such waterways. During track removal, appropriate measures will be implemented to prevent or control spills from fuels, lubricants or any other pollutant materials from entering any watercourses.

Based upon the above described actions, CSXT would appreciate your concurrence in its position that there would be no adverse impact to any federally-listed endangered or threatened species, critical habitats, wildlife sanctuaries or refuges, National or State parks, or forests.

CSXT would appreciate your comments regarding current and future land use in relationship to the Line. Any questions can be sent electronically to Kevin_Hardee@CSX.com by email or through the United States Postal Service (USPS).

Enclosed are a distribution list of all parties that have been copied on the proposed action, a map of the proposed location and the preliminary Combined Environmental and Historical Report for the line. If you have any questions, please feel free to call or email me.

Sincerely,

A handwritten signature in cursive script that reads "Kevin D. Hardee".

Kevin Hardee
Enclosures (3)



Jacksonville, Florida 32202
Phone (904) 366-4457
Email: Kevin_Hardee@csx.com

Kevin Hardee
Joint Facilities

July 26, 2023

U.S. Fish & Wildlife Services
Ohio Ecological Services Field Office
4625 Morse Road, Suite 104
Columbus, OH 43230-8355

Re: STB Docket No. AB-55 (Sub-No. 812X), CSX Transportation, Inc.—Abandonment
Exemption—in Cuyahoga, OH

Dear Madam/Sir:

CSX Transportation, Inc., (“CSXT”) proposes to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the “Line”). The Line runs through the U.S. Postal Zip Codes 44113 and 44115.

The action requires Surface Transportation Board approval and Federal Regulations 49 C.F.R. 1105.7 (8) (i) and (ii) requires that CSXT develop responses to the following statements:

- (i) *Based on consultation with the U. S. Fish and Wildlife Service state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.*
- (ii) *State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.*

Based upon the above described actions, CSXT would appreciate your concurrence in its position that there would be no adverse impact to any federally-listed endangered or threatened species, critical habitats, wildlife sanctuaries or refuges, National or State parks, or forests.

CSXT would appreciate your comments regarding current and future land use in relationship to the Line. Any questions can be sent electronically to Kevin_Hardee@CSX.com by email or through the United States Postal Service (USPS).

Enclosed are a distribution list of all parties that have been copied on the proposed action, a map of the proposed location and the preliminary Combined Environmental and Historical Report for the line. If you have any questions, please feel free to call or email me.

Sincerely,

A handwritten signature in cursive script that reads "Kevin D. Hardee". The ink is dark and the signature is fluid.

Kevin Hardee
Enclosures (3)



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ohio Ecological Services Field Office
4625 Morse Road, Suite 104
Columbus, OH 43230-8355
Phone: (614) 416-8993 Fax: (614) 416-8994



In Reply Refer To:

July 25, 2023

Project Code: 2023-0108787

Project Name: CSXT Abandonment in Cuyahoga County, OH

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/eo-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

07/25/2023

3

Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Ohio Ecological Services Field Office
4625 Morse Road, Suite 104
Columbus, OH 43230-8355
(614) 416-8993

PROJECT SUMMARY

Project Code: 2023-0108787

Project Name: CSXT Abandonment in Cuyahoga County, OH

Project Type: Road/Hwy - Abandonment

Project Description: CSX Transportation, Inc., ("CSXT") proposes to abandon the approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the "Line"). The Line runs through the U.S. Postal Zip Codes 44113 and 44115. CSXT intends to sell the Line to the City of Cleveland through the NITU process.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@41.49241415,-81.68865690502878,14z>



Counties: Cuyahoga County, Ohio

ENDANGERED SPECIES ACT SPECIES

There is a total of 6 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

BIRDS

NAME	STATUS
Piping Plover <i>Charadrius melodus</i> Population: [Great Lakes watershed DPS] - Great Lakes, watershed in States of IL, IN, MI, MN, NY, OH, PA, and WI and Canada (Ont.) There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Endangered
Red Knot <i>Calidris canutus rufa</i> There is proposed critical habitat for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: Private Entity
Name: Melanie Yasbin
Address: 600 Baltimore Ave, Suite 301
City: Towson
State: MD
Zip: 21204
Email: melanie@lgraillaw.com
Phone: 4102962205

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Surface Transportation Board



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / FAX (614) 416-8994



August 8, 2023

Project Code: 2023-0108787

Dear Mr. Kevin Hardee:

The U.S. Fish and Wildlife Service (Service) received your recent correspondence requesting information about the subject proposal. We offer the following comments and recommendations to assist you in minimizing and avoiding adverse effects to threatened and endangered species pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq), as amended (ESA).

Federally Threatened and Endangered Species: Due to the project, type, size, and location, we do not anticipate adverse effects to federally endangered, threatened, or proposed species or proposed or designated critical habitat. If there are any project modifications during the term of this action, or additional information for listed or proposed species or their critical habitat becomes available, or if new information reveals effects of the action that were not previously considered, then please contact us for additional project review.

If you have questions, or if we can be of further assistance in this matter, please contact our office at (614) 416-8993 or ohio@fws.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Patrice Ashfield".

Patrice Ashfield
Field Office Supervisor



Jacksonville, Florida 32202
Phone (904) 366-4457
Email: Kevin_Hardee@csx.com

Kevin Hardee
Joint Facilities

July 26, 2023

U.S. Army Corps of Engineers
Buffalo District
1776 Niagara Street
Buffalo, NY 14207
buffalo-iis@usace.army.mil

Re: STB Docket No. AB-55 (Sub-No. 812X), CSX Transportation, Inc.—Abandonment
Exemption—in Cuyahoga, OH

Dear Madam/Sir:

CSX Transportation, Inc., (“CSXT”) proposes to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the “Line”). The Line runs through the U.S. Postal Zip Codes 44113 and 44115.

Upon receipt of abandonment authority from the Surface Transportation Board (the “Board”), CSXT will consummate the abandonment and abandon the Line.

This action requires Board approval and Federal Regulations 49 C.F.R. 1105.7(e)(9) (ii) require that CSXT develop responses to the following statement:

“Based on consultation with the U. S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100 year flood plains will be affected. Describe the effects.”

Based upon the above described actions, CSXT would appreciate your concurrence in its position that there would be no adverse impact on wetlands or 100-year flood plains, and that no permits under Section 404 will be required.

CSXT would appreciate your comments regarding current and future land use in relationship to the Line. Any questions can be sent electronically to Kevin_Hardee@CSX.com by email or through the United States Postal Service (USPS).

Enclosed are a distribution list of all parties that have been copied on the proposed action, a map of the proposed location and the preliminary Combined Environmental and Historical Report for the line. If you have any questions, please feel free to call or email me.

Sincerely,

A handwritten signature in cursive script that reads "Kevin D. Hardee".

Kevin Hardee
Enclosures (3)



Jacksonville, Florida 32202
Phone (904) 366-4457
Email: Kevin_Hardee@csx.com

Kevin Hardee
Joint Facilities

July 26, 2023

Bert Frost, Regional Director
National Park Service
601 Riverfront Drive
Omaha, NE 68102-4226

Re: STB Docket No. AB-55 (Sub-No. 812X), CSX Transportation, Inc.—Abandonment
Exemption—in Cuyahoga, OH

Dear Madam/Sir:

CSX Transportation, Inc., (“CSXT”) proposes to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the “Line”). The Line runs through the U.S. Postal Zip Codes 44113 and 44115.

Upon receipt of abandonment authority from the Surface Transportation Board (the “Board”), CSXT will consummate the abandonment and abandon the Line.

This action requires Board approval and Federal Regulations 49 C.F.R. 1105.7(c) require that advance notice be given to afford your agency a reasonable opportunity to provide meaningful input.

CSXT would appreciate your comments regarding current and future land use in relationship to the Line. Any questions can be sent electronically to Kevin_Hardee@CSX.com by email or through the United States Postal Service (USPS).

Enclosed are a distribution list of all parties that have been copied on the proposed action, a map of the proposed location and the preliminary Combined Environmental and Historical Report for the line. If you have any questions, please feel free to call or email me.

Sincerely,

A handwritten signature in cursive script that reads "Kevin D. Hardee".

Kevin Hardee
Enclosures (3)



Jacksonville, Florida 32202
Phone (904) 366-4457
Email: Kevin_Hardee@csx.com

Kevin Hardee
Joint Facilities

July 26, 2023

National Geodetic Survey
RRAE@noaa.gov

Re: STB Docket No. AB-55 (Sub-No. 812X), CSX Transportation, Inc.—Abandonment
Exemption—in Cuyahoga, OH

Dear Madam/Sir:

CSX Transportation, Inc., (“CSXT”) proposes to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the “Line”). The Line runs through the U.S. Postal Zip Codes 44113 and 44115.

Upon receipt of abandonment authority from the Surface Transportation Board (the “Board”), CSXT will consummate the abandonment and abandon the Line.

Please advise if there are any geodetic markers which could be affected by the proposed transaction. Any questions can be sent electronically to Kevin_Hardee@CSX.com by email or through the United States Postal Service (USPS).

Enclosed are a distribution list of all parties that have been copied on the proposed action, a map of the proposed location and the preliminary Combined Environmental and Historical Report for the line. If you have any questions, please feel free to call or email me.

Sincerely,

Kevin Hardee
Enclosures (3)



Jacksonville, Florida 32202
Phone (904) 366-4457
Email: Kevin_Hardee@csx.com

Kevin Hardee
Joint Facilities

July 26, 2023

Ohio History Connection
800 E. 17th Ave.
Columbus, OH 43211
section106@ohiohistory.org

Re: STB Docket No. AB-55 (Sub-No. 812X), CSX Transportation, Inc.—Abandonment
Exemption—in Cuyahoga, OH

Dear Madam/Sir:

CSX Transportation, Inc., (“CSXT”) proposes to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the “Line”). The Line runs through the U.S. Postal Zip Codes 44113 and 44115.

Upon receipt of abandonment authority from the Surface Transportation Board (the “Board”), CSXT will consummate the abandonment and abandon the Line.

In connection with rail line that is the subject of an application for authority to abandon, Federal Regulations at 49 CFR 1105.8(d), require that a Historic Report be submitted to the State Historic Preservation Officer prior to filing with the Surface Transportation Board. In accordance with those Regulations, I am attaching a preliminary Combined Environmental and Historic Report (“CEHR”) covering the above-proposed abandonment.

We would appreciate receiving a letter from your office confirming that this project will have no impact upon cultural resources. Any questions can be sent electronically to Kevin_Hardee@CSX.com by email or through the United States Postal Service (USPS).

Enclosed is a distribution list of all parties that have been copied on the proposed action, a map of the proposed location and the CEHR for the line. If you have any questions, please feel free to call or email me.

Sincerely,

A handwritten signature in black ink that reads "Kevin D. Hardee". The signature is written in a cursive style with a large, stylized 'K' and 'H'.

Kevin Hardee
Enclosures (3)



Jacksonville, Florida 32202
Phone (904) 366-4457
Email: Kevin_Hardee@csx.com

Kevin Hardee
Joint Facilities

July 26, 2023

John Wilson
State Conservationist
United States Department of Agriculture
Natural Resources Conservation Service
200 N High St Rm 522
Columbus, OH 43215-2479
john.wilson@usda.gov

Re: STB Docket No. AB-55 (Sub-No. 812X), CSX Transportation, Inc.—Abandonment
Exemption—in Cuyahoga, OH

Dear Madam/Sir:

CSX Transportation, Inc., (“CSXT”) proposes to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the “Line”). The Line runs through the U.S. Postal Zip Codes 44113 and 44115.

Upon receipt of abandonment authority from the Surface Transportation Board (the “Board”), CSXT will consummate the abandonment and abandon the Line.

This action requires Board approval and Federal Regulations 49 C.F.R. 1105.7(3) (ii) require that CSXT develop a response to the following statement:

“Based on consultation with the U. S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.”

Please advise if any of the land contiguous to CSXT’s line in the project area is classified as prime agriculture land.

CSXT would appreciate your comments regarding current and future land use in relationship to the Line. Any questions can be sent electronically to Kevin_Hardee@CSX.com by email or through the United States Postal Service (USPS).

Enclosed are a distribution list of all parties that have been copied on the proposed action, a map of the proposed location and the preliminary Combined Environmental and Historical Report for the line. If you have any questions, please feel free to call or email me.

Sincerely,

A handwritten signature in cursive script that reads "Kevin D. Hardee". The ink is dark and the signature is fluid.

Kevin Hardee
Enclosures (3)



Jacksonville, Florida 32202
Phone (904) 366-4457
Email: Kevin_Hardee@csx.com

Kevin Hardee
Joint Facilities

July 26, 2023

Office of Coastal Management
2514 Cleveland Road East
Huron, Ohio 44839
419-626-7980
coastal@dnr.ohio.gov

Re: STB Docket No. AB-55 (Sub-No. 812X), CSX Transportation, Inc.—Abandonment
Exemption—in Cuyahoga, OH

Dear Madam/Sir:

CSX Transportation, Inc., (“CSXT”) proposes to abandon an approximately 1.3-mile rail line that runs between milepost BJB 73.21 and milepost BJB 74.51, on its Cleveland Subdivision in Cuyahoga County, OH (the “Line”). The Line runs through the U.S. Postal Zip Codes 44113 and 44115.

Upon receipt of abandonment authority from the Surface Transportation Board (the “Board”), CSXT will consummate the abandonment and abandon the Line.

This action requires Board approval and Federal Regulations 49 C.F.R. 1105.7 (e)(9) (i) and (iii) require that CSXT develop a response to the following statements:

(i) *“Based on consultation with State Water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.”*

(iii) *“State whether permits under Section 402 of the Clean Water Act 33 U.S.C. 1342 are required for the proposed action.”*

There are no refueling or maintenance areas within the project area. The removal of CSXT's rail material will be accomplished by use of the right of way for access, along with existing public and private crossings, and no new access roads are contemplated. CSXT does not intend to disturb any of the underlying roadbeds and do not anticipate any dredging or use of fill in the removal of the track material. The crossties and/or other debris will be transported away from the rail line and will not be discarded along the right of way, nor be placed or left in streams or wetlands, or along the banks of such waterways. During track removal, appropriate measures will be implemented to prevent or control spills from fuels, lubricants or any other pollutant materials from entering any watercourses.

CSXT would appreciate your comments regarding current and future land use in relationship to the Line. Enclosed is CSXT's Preliminary CEHR with CSXT's analysis of current and future land use. Please respond by email to Kevin_Hardee@csx.com or by mail to the above address, within 20 days of the date of this letter so that CSXT can include and analyze your comments in its Final CEHR.

Also enclosed is the distribution list of all parties who have been requested to comment on the CEHR. If you have any questions, please feel free to call or email me.

Sincerely,

A handwritten signature in dark ink that reads "Kevin D. Hardee". The signature is written in a cursive style with a large, stylized 'K' and 'H'.

Kevin Hardee
Enclosures (3)



Ohio Coastal Management Program Consistency Certification Statement

I, <u>Melanie Yasbin</u> , do certify that the proposed activity complies with the enforceable policies of Ohio's approved coastal management program and will be conducted in a manner consistent with such program (16 U.S.C. § 1456 and O.R.C. §1506.03).		
Address: <u>600 Baltimore Ave, Suite 301</u>		
City: <u>Towson</u>	State: <u>MD</u>	Zip Code: <u>21204</u>
Telephone Number: <u>(410) 296-2250</u>		
Email Address: <u>melanie@lgraillaw.com</u>		
Applicant's Signature: <u>Melanie Yasbin</u>		Date: <u>7/25/2023</u>

Please list all local, State, and Federal permits, licenses, leases, and/or other authorizations required for this project:

1) <u>Surface Transportation Board authorization to abandon a line or railroad</u>
2) <u></u>
3) <u></u>
4) <u></u>
5) <u></u>

Please submit this signed statement with your Federal agency permit/ license application.

For additional information on Federal Consistency reviews, please contact the Ohio Coastal Management Program at coastal.regulatory@dnr.ohio.gov or (419) 626-7980.

RE: CSX Transportation, Inc.--Abandonment Exemption--in Cuyahoga County, OH



Steve.Holland@dnr.ohio.gov

To  Melanie Yasbin

Start your reply all with:

[Thank you for your confirmation.](#)

[Thank you!](#)

[Thank you for your response.](#)

 [Feedback](#)

Hello Melanie,

Thanks for forwarding this information to us. There are no comments on the proposed activity.

Thanks,

Steve



Steven J. Holland, M.P.A.
Coastal Programs Administrator
Office of Coastal Management
Ohio Department of Natural Resources
[2514 Cleveland Road East](#)
[Huron, Ohio 44839](#)

direct: (419) 609-4104

main office: (419) 626-7980

coastal.ohiodnr.gov



EXHIBIT 3 – USGS MAPS

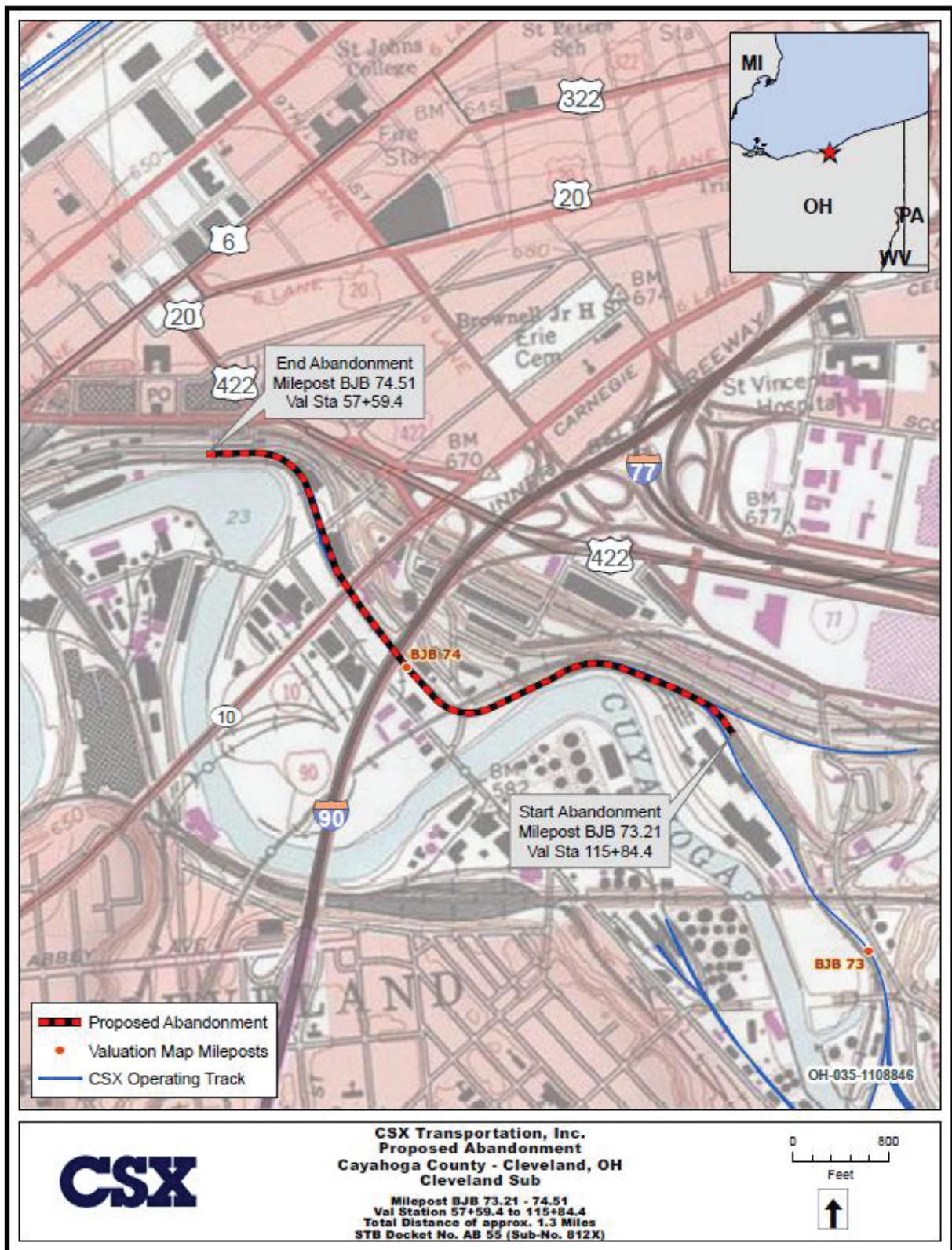


EXHIBIT 4 – PHOTOGRAPHS

BJB 73.59-0, Canal Road over CSX.

Track View, taken from low milepost facing high milepost.



BJB 73.59-0, Canal Road over CSX. Side View.



BJB 73.59-0 , Canal Road over CSX.

Reverse Track View, taken from high milepost facing low milepost.



BJB 73.60-0 , Norfolk Southern over CSX. Track View, taken from low milepost facing high milepost.



BJB 73.60-0 , Norfolk Southern over CSX. Side View, from low milepost facing the left pier/support.



BJB 73.60-0 , Norfolk Southern over CSX.

Reverse Track View, taken from high milepost facing low milepost.



BJB 73.80-0, I-90 Overhead Bridge. Track View, taken from low milepost facing high milepost.



BJB 73.80-0, I-90 Overhead Bridge. Side View.



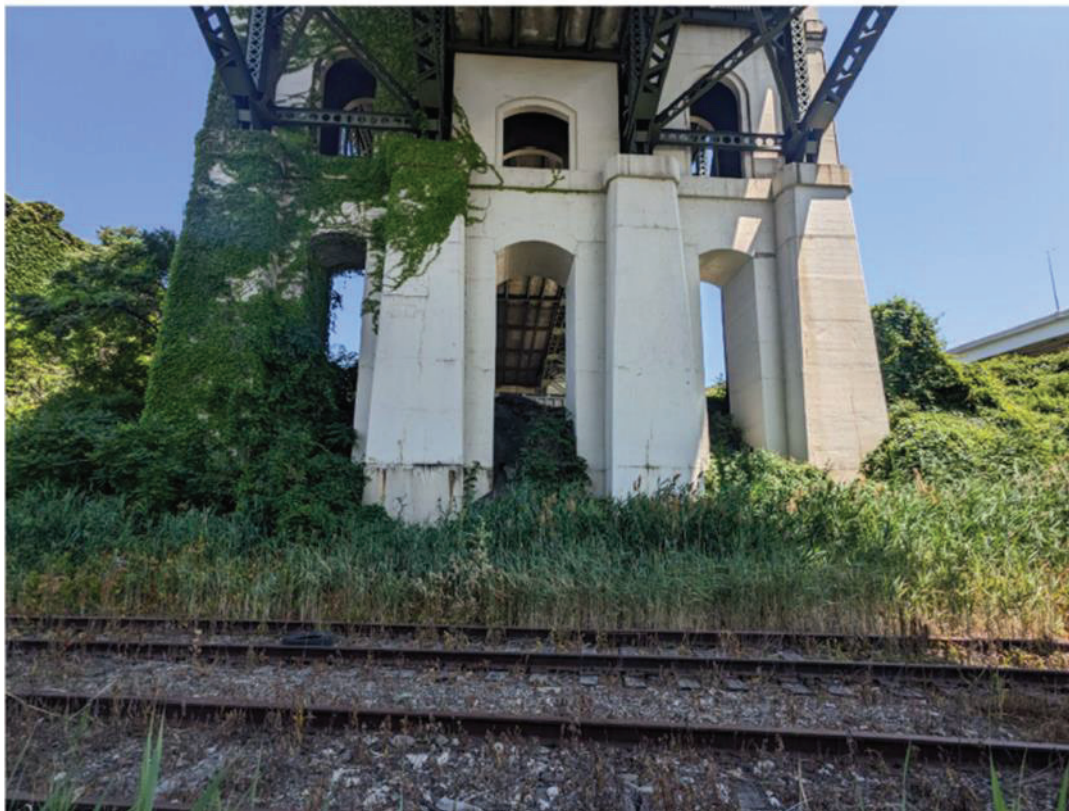
BJB 73.80-0 , I-90 Overhead Bridge. Reverse Track View, From high milepost facing low milepost.



BJB 74.00-0 , Carnegie Avenue Overhead Bridge. Track View, taken from low milepost facing high milepost.



BJB 74.00-0 , Carnegie Avenue Overhead Bridge. Side View



BBJ 74.00-0 , Carnegie Avenue Overhead Bridge. Reverse Track View, from high milepost facing low milepost



BJB 74.25, Stones Levee Overhead Bridge in Cleveland, Ohio – Track View



BJB 74.25 Side View



EXHIBIT 3 – USGS MAPS

