

SERVICE DATE – NOVEMBER 9, 2023

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

SUPPLEMENTAL FINAL ENVIRONMENTAL ASSESSMENT

Docket No. AB 55 (Sub-No. 807X)

CSX Transportation, Inc. – Abandonment Exemption –In Muskegon County, Mich.

Docket No. AB 364 (Sub-No. 17X)

Michigan Shore Railroad Division, Mid-Michigan Railroad, Inc. –Discontinuance of Service –In Muskegon County, Mich.

In this proceeding, CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon and for Michigan Shore Railroad Division, Mid-Michigan Railroad, Inc. (MMRR) to discontinue a line of railroad in Muskegon County, Michigan. The rail line proposed for abandonment extends approximately 3.81 miles from milepost CGCS 56.35 just east of 11th Street to milepost CGCS 60.16 near Keaton Court on the South Horn Spur (the Line). By decision dated August 9, 2022, the Board imposed a historic preservation condition pursuant to Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108.

The Section 106 historic preservation condition imposed by the Board in its August 9, 2022, decision requires CSXT to: (a) 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 Effects) that are eligible for listing or listed in the National Register of Historic Places (National Register) until the Section 106 process of the NHPA has been completed; (b) report back to the Office of Environmental Analysis (OEA) regarding any consultations with the Michigan State Historic Preservation Office (SHPO), appropriate federally recognized tribes, and the public; and (c) not file a consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

Comments on EA

On October 30, 2023, OEA received a comment from SHPO stating that the proposed abandonment would have no adverse effect on historic properties. Given the possibility for inadvertent discovery of human remains or archeological materials, SHPO also requested the development of an Unanticipated Discoveries Plan in consultation with SHPO prior to CSXT's commencement of salvage-related activities. To address SHPO's concerns, OEA has prepared an Unanticipated Discoveries Plan in consultation with SHPO and is recommending that an

additional unanticipated discovery condition be imposed on any decision granting abandonment authority.

Accordingly, pursuant to the Section 106 regulations of the NHPA at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, OEA has determined that CSXT's proposed abandonment would not adversely affect historic properties listed in or eligible for inclusion in the National Register.¹ The Board has satisfied its responsibilities under Section 106 of the NHPA in this proceeding, and OEA is recommending that the Board remove the Section 106 condition.

Conclusions

For the reasons stated above, OEA recommends that the Board remove the Section 106 condition imposed in its August 9, 2022 decision and impose the following additional condition upon any decision granting abandonment authority:²

In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during abandonment-related salvage activities, CSX Transportation, Inc. (CSXT) shall immediately cease all work and notify the Office of Environmental Analysis (OEA), interested federally recognized tribes, and the Michigan State Historic Preservation Office (SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA will then consult with the SHPO, interested federally recognized tribes, CSXT, and other consulting parties in accordance with the Unanticipated Discoveries Plan developed in consultation with SHPO to determine whether appropriate mitigation measures are necessary.

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

¹ The documentation for this finding, as specified at 36 C.F.R. § 800.11(e), consists of CSXT's E & H Report, all relevant correspondence, the Draft EA, the Final EA and this Supplemental Final EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <https://www.stb.gov/>.

² If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 is reached for the Line (or a portion thereof), compliance with this condition is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.