

# Marion County Commission

CODY A. STARCHER  
Commissioner and President

ALAN L. PARKS  
Commissioner

RANDY J. ELLIOTT  
Commissioner

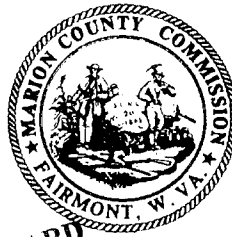
SHARON JONES SHAFFER  
County Administrator

Address Correspondence to:

200 JACKSON STREET • ROOM 403  
FAIRMONT, WEST VIRGINIA 26554

(304) 367-5400

FAX (304) 367-5431

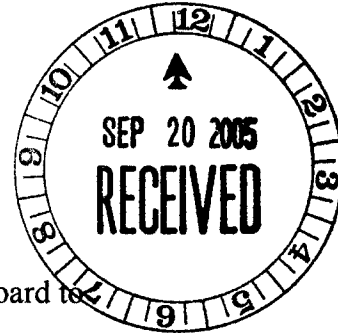


**FILED**

SEP 20 2005

SURFACE  
TRANSPORTATION BOARD

214715



## Petition to File for Rail Trail Use STB Docket No. AB-55 Sub-No. 656X

The Marion County Commission hereby petitions the Surface Transportation Board to acquire a right-of-way of a rail line for interim trail use.

In order to establish interim trail use and rail banking under 16 U.S.C. 1247 and 49 CFR 1152.29, The Marion County Commission is willing to assume full responsibility for management of, for any legal liability arising out of the transfer of use of, and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by CSX Transportation and operated by CSX Transportation. The property, known as Southern Region, Huntington Division Ease, Fairmont Subdivision, from railroad milepost BS 306.32 near Barrackville, to railroad milepost BS 319.48 near Mannington, also including the Dents Run Spur between milepost BSB 0.00 and milepost BSB 4.35, a distance of 17.51 miles in Marion County, West Virginia. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-55 (Sub-No. 656X).

A map of the property depicting the right-of-way is attached. Also, attached is the CSX filing.

The Marion County Commission acknowledges that use of the right-of-way is subjected to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad(s) on the same date it is being served to the board.

ENTERED  
Office of Proceedings

SEP 20 2005

Part of  
Public Record

**FEE RECEIVED**

SEP 20 2005

TRANSPORTATION BOARD

Respectfully Submitted,

A handwritten signature in cursive script, reading "Cody A. Starcher".

Cody A. Starcher, President  
Marion County Commission

36141

SERVICE DATE – SEPTEMBER 8, 2005

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-55 (Sub-No. 656X)]

CSX Transportation, Inc.—Abandonment Exemption—in Marion County, WV

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 17.51-mile line of its Southern Region, Huntington Division East, Fairmont Subdivision, between Barrackville, milepost BS 306.32, and Mannington, milepost BS 319.48, including the Dents Run Spur between milepost BSB 0.00 and milepost BSB 4.35, in Marion County, WV.<sup>1</sup> The line traverses United States Postal Service Zip Codes 26528, 26587, 26571, 26554, and 26559.

CSXT has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by 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 with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR

---

<sup>1</sup> CSXT received discontinuance authority over the involved line segment in CSX Transportation, Inc.—Discontinuance Exemption—in Marion County, WV, Docket No. AB-55 (Sub-No. 376X) (ICC served Apr. 4, 1991).

1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 8, 2005, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 18, 2005. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 28, 2005, with: Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to the applicant's representative: Louis E. Gitomer, Ball Janik LLP, 91455 F Street, N.W., Suite 225, Washington, DC 20005.

---

<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,200. See 49 CFR 1002.2(f)(25).

If the verified notice contains false or misleading information, the exemption is void ab initio.

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 13, 2005. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by CSXT's filing of a notice of consummation by September 8, 2006, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at  
“WWW.STB.DOT.GOV.”

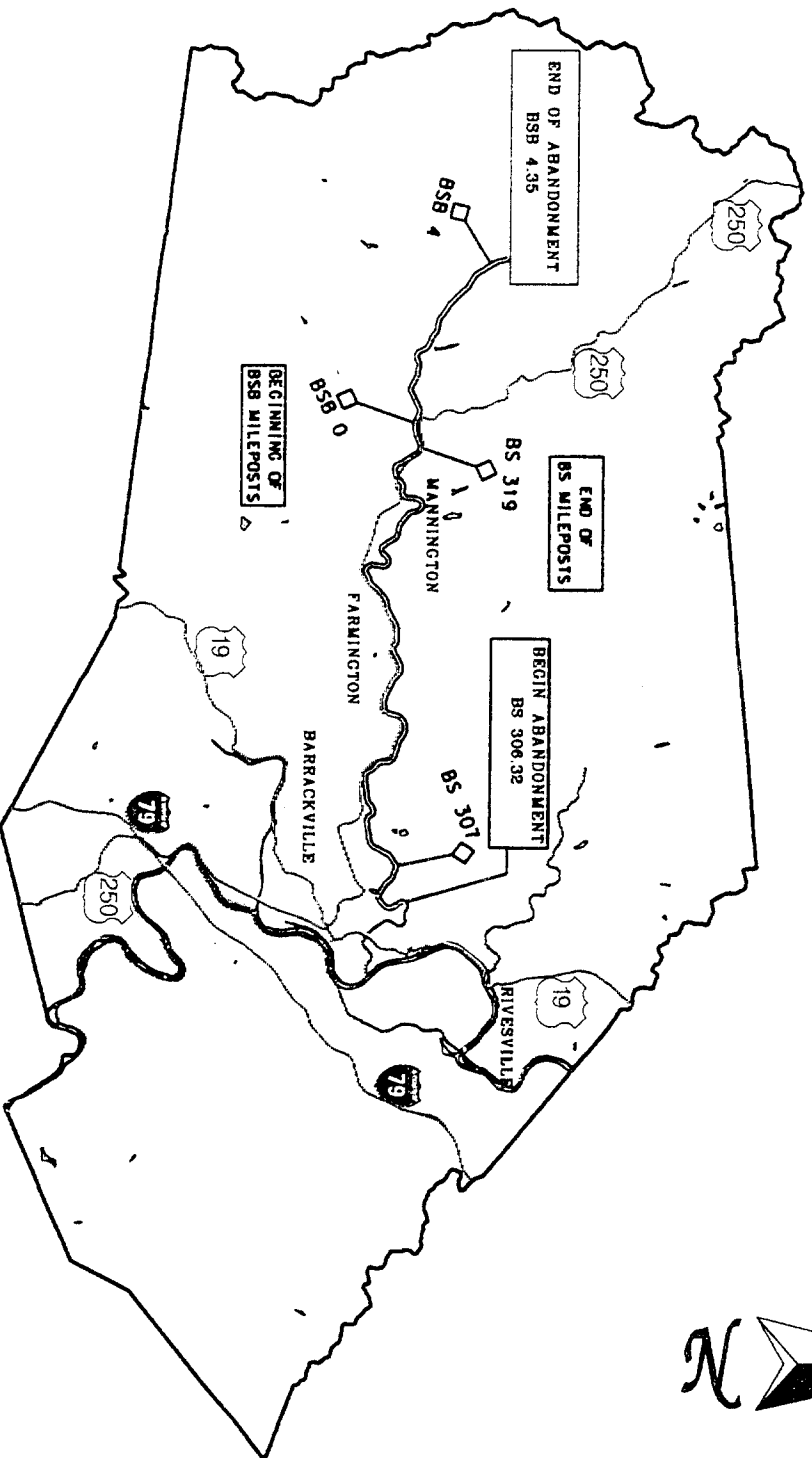
Decided: September 1, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary

# MARION COUNTY, WV



## CSX TRANSPORTATION

### ABANDONMENT

MARION COUNTY, WV

STB DOCKET AB 55 SUB NO. 656X

BS 306.32 TO BS 319.48

BSB 0.00 TO BSB 4.35

NOT TO SCALE

## LEGEND

ABANDONED SEGMENT

ALL OTHER CSX LINES