

FINAL ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN DOCKET NO. AB 55 (Sub-No. 794X)

October 4, 2019

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

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In this proceeding, CSX Transportation, Inc. (CSXT) filed a notice with the Surface Transportation Board (Board) under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in the City of St. Petersburg, Pinellas County, Florida (St. Petersburg). The rail line proposed for abandonment extends approximately 0.86 miles from milepost ARE 897.57 to milepost ARE 898.43 on the CSXT Clearwater Subdivision (the Line). OEA served an Environmental Assessment (EA) for this proceeding on September 13, 2019 for public review and comment. In the EA, OEA recommended one environmental condition (related to the Section 106 historic review process) and concluded that the proposed action would not significantly impact the quality of the human environment.

Comments on the EA

City of St. Petersburg

On September 18, 2019, St. Petersburg formally filed a pleading with the Board setting forth St. Petersburg's comments on the EA. In those comments, St. Petersburg notes that the EA incorrectly states that CSXT has agreed to enter into trail use negotiations with St. Petersburg. OEA agrees with St. Petersburg that the referenced statement in the EA is incorrect. In response to this comment, OEA clarifies that CSXT agreed to enter into trail use negotiations with the Georgetown and High Line Railway Company. OEA adds that negotiating trail use under Section 8(d) of the National Trails System Act is a voluntary agreement between a railroad filing for abandonment authority with the Board and a trail sponsor. Because the Board's role in the trail use negotiation process is purely ministerial, the EA does not assess the potential environmental impacts related to trails use nor recommends environmental conditions to mitigate impacts related to trails use.

In its comments, St. Petersburg also states that CSXT may intend to sell the rail right-of-way for development rather than for trail use if abandonment authority is granted and that mitigation is necessary to protect the integrity of local land use planning as it relates to post-abandonment use of the rail line. OEA notes that it is well settled that, in conducting environmental review of abandonment cases, the Board's role is limited to the anticipated impacts of the abandonment proposal before the agency, including the potential diversion of traffic to other lines or transportation modes and the consequences of removing the track and

related structures (see Iowa Southern R. Co.—Exemption—Abandonment, 5 I.C.C.2d 496, 501(1989), aff'd, Goos v. ICC, 911 F.2d 1283 (8th Cir. 1990)). It would not be appropriate or consistent with Board precedent for OEA to recommend conditions regarding the consistency of potential post-abandonment uses of the rail right-of-way with local land use plans. In the present case, there is no existing traffic on the Line, so no diversion of rail traffic to other transportation modes would occur. Therefore, the EA and this Final EA consider the impacts of abandonment-related salvage of track and related material. Accordingly, OEA is not recommending any modifications to the EA in related to local land use planning in response to St. Petersburg's comments.

In its September 18, 2019 filing, St. Petersburg also states that the EA was incorrect in asserting that the Line is not immediately adjacent to any waterways or wetlands. St. Petersburg states that the portion of the Line is adjacent to Booker Creek, a naturally flowing waterway connecting Booker Lake to Tampa Bay. St. Petersburg explains that, although the removal of rails, crossties, and other rail-related items would likely not result in an adverse impact on Booker Creek, St. Petersburg believes that certain mitigation requirements from the Board would guarantee that the removal of those materials would not negatively impact water resources.

Upon further review of available data, OEA has confirmed that the portion of the rail right-of-way between 1st Ave. N and Central Ave. is adjacent to a below-grade drainage feature that forms part of Booker Creek. To address St. Petersburg's concerns regarding potential impacts to that waterway, OEA is recommending a condition requiring CSXT to consult with St. Petersburg regarding potential abandonment-related impacts to that waterway and to follow the reasonable recommendations of St. Petersburg regarding the removal of tracks, ties, and other rail materials from the rail right-of-way during abandonment-related salvage activities.

CSX Transportation, Inc.

At the request of OEA, CSXT conducted a search of the Florida Master Site File, the State of Florida's official inventory of historical and cultural resources, to help identify historic properties that could potentially be affected by the proposed abandonment, and provided the results of that search to inform OEA's historic review under Section 106 of the National Historic Preservation Act. The search identified two potentially historic properties in the vicinity of the Line. The first of these properties is a building located at 1235 Central Ave, which is well outside of the Area of Potential Effect (APE) of the proposed abandonment. The search also indicated that the Line crosses the EDGE District, which is identified in the Florida Master Site File as a Historical District. Because salvage activities would be limited to the removal of rail, ties, and related materials from the rail right-of-way, OEA believes that the proposed abandonment would not affect the historic integrity of the EDGE District or of any other historic properties.

Florida State Historic Preservation Officer

On September 16, 2019, the Florida State Historic Preservation Officer (SHPO) submitted comments stating that the proposed abandonment would be unlikely to affect historic properties listed on or eligible for listing on the National Register of Historic Places. OEA has reviewed the record and the information provided by the SHPO and concurs with the SHPO's comments. We therefore recommend that the mitigation measure originally recommended in the EA, which would have required CSXT to retain its interest in and take no steps to alter any historic properties within the APE until the completion of the Section 106 process, not be imposed in any decision granting abandonment authority in this proceeding.

The SHPO recommends that, should the abandonment be authorized, a condition be imposed in the Board decision regarding unexpected discoveries of prehistoric or historic artifacts, such as pottery or ceramics, projectile points, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement. The SHPO states that, if such artifacts are encountered, CSXT should cease all activities involving subsurface disturbance in the vicinity of the discovery and contact the Florida Department of State, Division of Historical Resources, Compliance Review Section. The SHPO also states that, in the event that unmarked human remains are encountered, CSXT should stop work immediately and notify the proper authorities in accordance with Florida law. To address the SHPO's comments, OEA is recommending that the Board impose a condition requiring CSXT to cease work and report to the SHPO and OEA in the event that unanticipated archaeological sites, artifacts, or remains are discovered.

U.S. Army Corps of Engineers

On September 17, 2019, the U.S. Army Corps of Engineers (Corps) submitted comments stating that the proposed abandonment would not require a Corps permit under Section 404 of the Clean Water Act or a permit under Section 10 of the Rivers and Harbors Act because salvage activities would not result in the discharge of dredged or fill material into wetlands or waters of the United States and would not be located within navigable water of the United States. OEA does not recommend any modifications to the EA in response to the Corps' comments.

Modifications to the EA

After reviewing the comments received during the public comment period, OEA is amending the conditions originally recommended in the EA. Following consultation with the SHPO, OEA is no longer recommending that the Section 106 condition originally recommended in the EA be imposed. To address the SHPO's concerns regarding unexpected discoveries of prehistoric or historic artifacts, OEA is now recommending a condition requiring CSXT to cease all activities and contact the SHPO in the event that such artifacts are encountered during abandonment-related salvage activities. In addition, to address St. Petersburg's concerns regarding Booker Creek, OEA is recommending a new condition requiring CSXT to consult with St. Petersburg prior to beginning salvage activities and to implement the reasonable recommendations of St. Petersburg as they relate to abandonment-related salvage activities.

Conclusions

The EA comment period has ended. OEA recommends that the following conditions be imposed upon any decision granting abandonment authority:

- 1. Prior to beginning salvage activities, CSX Transportation, Inc. (CSXT) shall consult with the City of St. Petersburg (St. Petersburg) regarding potential impacts of abandonment-related salvage activities on Booker Creek. CSXT shall implement St. Petersburg's reasonable recommendations for mitigating potential impacts to Booker Creek that could occur as a result of the removal of track, ties, and other rail materials as part of abandonment-related salvage activities.**
- 2. In the event that any unanticipated archaeological sites or associated artifacts, such as pottery or ceramics, projectile points, dugout canoes, metal implements, historic**

building materials, or any other physical remains that could be associated with Native America, early European, or American settlement, are encountered during salvage activities, CSX Transportation, Inc. (CSXT) shall immediately cease all work and notify the Office of Environmental Analysis (OEA) and the Florida State Historic Preservation Officer (SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA shall then consult with the SHPO, CSXT, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary. In the event that unmarked human remains are encountered during salvage activities, CSXT shall stop work immediately and notify OEA, the SHPO, and other appropriate state authorities.

If the above conditions are imposed, OEA believes that the proposed action will not significantly affect the quality of the human environment.

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