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SEA

SERVICE DATE – OCTOBER 1, 2007

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-55 (Sub-No. 649X)

**CSX Transportation, Inc. – Abandonment Exemption –
in Niagara County, NY**

BACKGROUND

In this proceeding, CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a line of railroad in Niagara County, New York. The rail line proposed for abandonment extends 1.57 miles from milepost QCJ 13.42 to milepost QCJ 15.00 in North Tonawanda, NY (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to CSXT, the right-of-way was acquired between 1870 and 1878 by the New York Central & Hudson Railroad. Through a series of mergers and acquisitions, the Line became owned and operated by the Erie-Lackawanna Railroad. The Line was then absorbed by Conrail in 1976. In 1999, CSXT and Norfolk Southern Corporation jointly acquired control of Conrail. As a result of the acquisition, the Line was assigned to New York Central Lines, LLC, a wholly owned subsidiary of Conrail, to be exclusively operated by CSXT pursuant to an operating agreement.

CSXT states that the operating easement right-of-way width along the Line is approximately 25 feet from the center-line of track. CSXT also indicates that the rail line traverses an urbanized and semi-industrial area.

ENVIRONMENTAL REVIEW

CSXT submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. CSXT served the environmental report on a number of appropriate Federal, state, and local agencies as required by

the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)].¹ The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to CSXT, no local traffic has moved over the Line in over two years, and there is no overhead traffic to be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

CSXT indicates that the proposed abandonment would result in the removal of the rail, crossties, and possibly the upper layer of ballast. CSXT states that it does not intend to disturb any sub grade structures. Removal of the material would be accomplished by using the right-of-way for access, along with existing public and private crossings, and no new access roads would be contemplated. CSXT indicates that removal of the rail line will result in the elimination of three public at grade crossings.

Mr. Lawrence V. Soos, the Mayor of the City of Tonawanda (City), stated that there will be no negative impact with regard to the proposed abandonment and that the City has no objections. Furthermore, Mr. Samuel Ferraro, Commissioner of the Niagara County Department of Development (NCDD), indicated that the NCDD supports the proposed abandonment.

The New York Department of State – Division of Coastal Resources (NYDCR) indicated that CSXT's application was incomplete for evaluation and requested additional information. CSXT contacted Ms. Denise Coldwell at NYDCR and explained that a copy of the environmental report would be sent to her office. Ms. Coldwell advised that she would review the environmental report to determine if any further application or permits are necessary. Accordingly, we recommend that a condition be imposed upon any decision granting abandonment authority requiring CXST to consult with NYDCR to determine whether the

¹ The railroad's environmental and historic reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB-55 (Sub-No. 649X).

proposed abandonment would require further applications or permits and to comply with its reasonable requirements.

The U.S. Fish and Wildlife Service reviewed the project and stated that it has no further comments. Therefore, no further consultation pursuant to Section 7 of the Endangered Species Act is required.

The New York State Department of Environmental Conservation (NYSDEC), Division of Legal Affairs indicated that the proposed abandonment would have no environmental impact. The NYSDEC, Division of Environmental Permits (DEP) advised that the wooden cross ties should be recycled for reuse or if too deteriorated for future use, should be taken to an appropriate land fill for proper disposal. DEP also indicated that since the proposed abandonment would likely involve land disturbance of over one acre, a State Pollutant Discharge Elimination System General Permit (GP-02-01) for Stormwater Discharge from Construction Activities might be required. Finally, DEP stated that it could not make a determination as to whether there may be permits required pursuant to Section 402 of the Clean Water Act. Accordingly, we recommend that a condition be imposed upon any decision granting abandonment authority requiring CSXT to consult with NYSDEC DEP to determine whether the salvage activities would require a permit for stormwater discharges.

The U.S. Environmental Protection Agency's Region 2 Office (USEPA) stated that the New York State Department of Environmental Conservation is authorized to implement the Section 402 permit program in New York and suggested that CSXT contact that agency.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, SEA is providing a copy of this EA to USEPA, NYDCR and NYSDEC DEP for their review and comment.

HISTORIC REVIEW

CSXT served the historic report on the New York State Historic Preservation Officer (SHPO), pursuant to 49 CFR 1105.8(c). The SHPO submitted comments stating that the proposed abandonment would have no effect upon cultural resources in or eligible for inclusion in the National Register of Historic Places (National Register). We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process of the National Historic Preservation Act at 36 CFR 800.5(c) and 36 CFR 800.8, we have determined that the proposed abandonment will not adversely affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

SEA conducted a search of the Native American Consultation Database at <http://www.nps.gov/nacd/> to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that the following tribes may have an interest in the proposed abandonment: Seneca Nation of New York; Tonawanda Band of Seneca Indians of New York; and Tuscarora Nation of New York. Accordingly, SEA is sending a copy of this EA to these tribes for their review and comment.

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. Prior to commencement of any salvage activities, CSXT Transportation, Inc. shall consult with the New York Department of State – Division of Coastal Resources to determine whether the proposed abandonment would require further applications or permits and comply with its reasonable requirements.
2. Prior to commencement of any salvage activities, CSXT Transportation, Inc. shall consult with the New York State Department of Environmental Conservation, Division of Environmental Permits to determine whether a general permit for stormwater discharges would be required and comply with its reasonable requirements.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended condition is imposed, abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 245-0230, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Danielle Gosselin, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-55 (Sub-No. 649X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Danielle Gosselin, the environmental contact for this case, by phone at (202) 245-0300, fax at (202) 245-0454, or e-mail at danielle.gosselin@stb.dot.gov.

Date made available to the public: October 1, 2007.

Comment due date: October 15, 2007.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment