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OEA

SERVICE DATE – AUGUST 5, 2024

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 55 (Sub-No. 816X)

**CSX Transportation, Inc.– Abandonment Exemption –
In Pike County, Ky.**

BACKGROUND

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 in connection with the abandonment of a line of railroad in Pike County, Kentucky. The rail line proposed for abandonment extends approximately 5.1 miles from milepost CML 9.0 to milepost CML 14.1 (the Line). A map depicting the Line in relationship to the area served is appended to this Draft Environmental Assessment (Draft 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 Line begins northwest of Maynard Hill Road and generally runs parallel to Zebulon Highway in a southeasterly direction. The Line is known as the Winns Branch, Big Sandy Subdivision, and was originally part of the Chesapeake and Ohio Railway's (C&O) Coon Creek Subdivision. In 1972, the C&O became part of Chessie System and then merged into CSXT in 1987 where it continued to support the coal industry. As more U.S. utilities switched to natural gas, the demand for coal shipments from Winns Branch continued to fall. According to CSXT, all of the coal producers or support industries on the Line eventually closed, including the Kinney Branch Mining, Standard Elkhorn Mining, Primary Energies and Tri-State Salvage & Construction.

ENVIRONMENTAL REVIEW

CSXT submitted a combined environmental and historic report (E&H Report) that concludes the quality of the human environment would not be affected significantly as a result of the proposed abandonment of the Line, including salvage. CSXT served the E&H Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation

Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)]¹ implementing the National Environmental Policy Act. The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to CSXT, no local traffic has moved over the Line over the last two years, and overhead traffic on the Line has been rerouted. Therefore the proposed abandonment would not result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network. Nor would the proposed abandonment adversely impact the development, use and transportation of energy resources or recyclable commodities or the transportation of ozone-depleting materials.

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. If abandonment authority is granted, CSXT intends to remove the rail, the crossties, and possibly the upper layer of ballast, but does not intend to disturb any subgrade or subgrade structures. Any structures, such as bridges, trestles, culverts, and tunnels would not be salvaged. CSXT does not intend to construct any new access roads. According to CSXT, abandonment is consistent with existing land use plans in the area, and no prime agricultural land would be affected. CSXT also states that there are 13 road crossings (4 public road crossings and 9 private road crossings) on the Line, all of which can be closed.

CSXT requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of the proposed abandonment to protected wildlife, including federally listed threatened and endangered species. USFWS submitted comments identifying three endangered species—the northern long-eared bat (*Myotis septentrionalis*), gray bat (*Myotis grisescens*), and Indiana bat (*Myotis sodalis*)—that may be affected by the proposed abandonment, as well as the proposed endangered tricolor bat (*Perimyotis subflavus*) and candidate monarch butterfly (*Danaus plexippus*). USFWS stated that “significant impacts to federally listed species are not likely to result from this project as currently proposed.” In its E&H Report, CSXT stated that it would conduct abandonment-related salvage during the northern long-eared bat's inactive

¹ The E&H Report is available for viewing on the Board's website at www.stb.gov by clicking “Search STB Records;” selecting “Filings” in the “Search for” dropdown menu; entering “AB” “55” “816” “X” sequentially in the four boxes for “Docket Number,” then selecting “Search.” The E&H Report was filed on July 11, 2024.

period, between November 15 and March 30, to avoid any adverse effects to the species. Therefore, OEA has determined that these federally listed threatened or endangered species would not be affected because of the limited scope of CSXT's abandonment, the absence of critical habitat in the project area, and CSXT's commitment to conduct salvage activities between November 15 and March 31. Accordingly, OEA recommends that any decision granting abandonment authority include a condition requiring CSXT to conduct any abandonment-related salvage activities between November 15 and March 31 to minimize potential impacts to the northern long-eared bat. OEA is providing USFWS Kentucky Ecological Services Field Office a copy of this Draft EA for its review.

On July 10, 2024, the Kentucky Department for Environmental Protection (DEP) submitted comments recommending that CSXT: (1) develop a Groundwater Protection Plan (GPP) for protection of groundwater resources; (2) utilize best management practices to reduce runoff from project activities into nearby waters; (3) obtain permits from the Division of Water, Water Resources Branch for work in portions of the project within the regulated floodplain; (4) determine if the Line is within the 1% annual chance floodplain and, if so, obtain a stream construction permit; (5) determine if a Floodplain General Permit or Individual Permit is required; (6) determine if a 404 permit from the US Army Corps of Engineers (Corps) or 401 Water Quality Certification is required if working below the top of a bank, within a stream channel, or within wetlands; (7) take reasonable precaution to prevent particulate matter from becoming airborne; (8) report any underground storage tanks (USTs) encountered during the project to the Kentucky Division of Waste Management (KDWM), UST Branch; (9) dispose of any solid waste generated by this project at a permitted facility; and (10) use the Kentucky Biological Assessment Tool to determine potential impacts to federally or state listed species.

Accordingly, OEA recommends that any Board decision granting abandonment authority include a condition requiring CSXT to consult with DEP prior to commencement of any abandonment-related salvage activities regarding the concerns listed in DEP's July 10, 2024 letter. OEA also recommends a condition requiring CSXT to notify KDWM, UST Branch, if any UST's are encountered during abandonment-related salvage activities. Lastly, as OEA has not heard from the Corps, but the Line is in close proximity to local waterways, OEA recommends a condition requiring CSXT to consult with the Corps prior to commencement of any abandonment-related activities and comply with its reasonable requirements.

The Line is not located within a coastal zone. Accordingly, no federal consistency review under Section 307 of the Coastal Zone Management Act of 1972 is required.

OEA believes that any air emissions associated with abandonment activities would be temporary and would not have a significant impact on air quality. Similarly, any noise-related impacts from the proposed abandonment would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this Draft EA to the following agencies for review and comment: DEP; USFWS; KDWM, UST Branch; and the Corps.

HISTORIC REVIEW

CSXT served the E&H Report on the Kentucky Heritage Council (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c).² OEA has not heard from the SHPO and therefore has not been able to consider the SHPO's opinion before determining if the Line may be potentially eligible for listing on the National Register of Historic Places (National Register). Accordingly, OEA is recommending a condition requiring CSXT to 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 Effect) eligible for listing or listed in the National Register until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at [www. https://www.stb.gov/resources/environmental/historic-preservation-overview](https://www.stb.gov/resources/environmental/historic-preservation-overview).

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development's Tribal Directory Assessment Tool (TDAT) to identify federally recognized Tribes that may have ancestral connections to the project area.³ The database indicated that the Cherokee Nation and the Eastern Band of Cherokee Indians may have knowledge regarding properties of traditional, religious and cultural significance within the right-of-way (the APE) of the proposed abandonment. Accordingly, OEA is sending a copy of this Draft EA to these Tribes for review and comment.

² Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act. Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. § 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found at a link on the bottom of the Board's website overlooking historic preservation at <https://www.stb.gov/resources/environmental/historic-preservation-overview>.

³ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed July 7, 2024).

CONDITIONS

OEA recommends that the following conditions be imposed on any decision granting abandonment authority:⁴

1. CSX Transportation, Inc. (CSXT) shall 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 Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. CSXT shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the Kentucky Heritage Council (SHPO) and the public. CSXT may not file its 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.
2. Prior to commencement of any abandonment-related salvage activities, CSX Transportation, Inc. shall consult with the Kentucky Department of Environmental Protection (DEP) regarding the concerns listed in DEP's letter dated July 10, 2024.
3. If CSX Transportation, Inc. (CSXT) encounters any underground storage tanks (USTs) during any abandonment-related salvage activities, CSXT shall notify the Kentucky Division of Waste Management (KDWM), UST Branch.
4. Prior to commencement of any abandonment-related salvage activities, CSX Transportation, Inc. shall consult with the U.S. Army Corps of Engineers (Corps) regarding its requirements and, if applicable, shall comply with its reasonable requirements.
5. To address the U.S. Fish and Wildlife Service's concerns regarding the northern long-eared bat, CSXT shall conduct abandonment-related salvage activities during the northern long-eared bat's inactive season between November 15 and March 30.

⁴ 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 these conditions is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are 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 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Board's Federal Register notice of the proposed abandonment. The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁵

TRAIL 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 C.F.R. § 1152.29). The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁶

⁵ Board decisions are available for viewing on the Board's website at www.stb.gov by clicking "Search STB Records;" selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "55" "816" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

⁶ Id.

PUBLIC ASSISTANCE

The Board’s Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

OEA encourages interested parties to submit their comments on the Draft EA electronically through the Board’s website at <https://www.stb.gov/>. From the Board’s home page, select “File an Environmental Comment” below the “Need Assistance?” button. Log-in accounts are not needed to file environmental comments electronically, and brief comments can be typed in the comment field, and lengthier comments can be attached as Word, Adobe Acrobat, or other file formats.

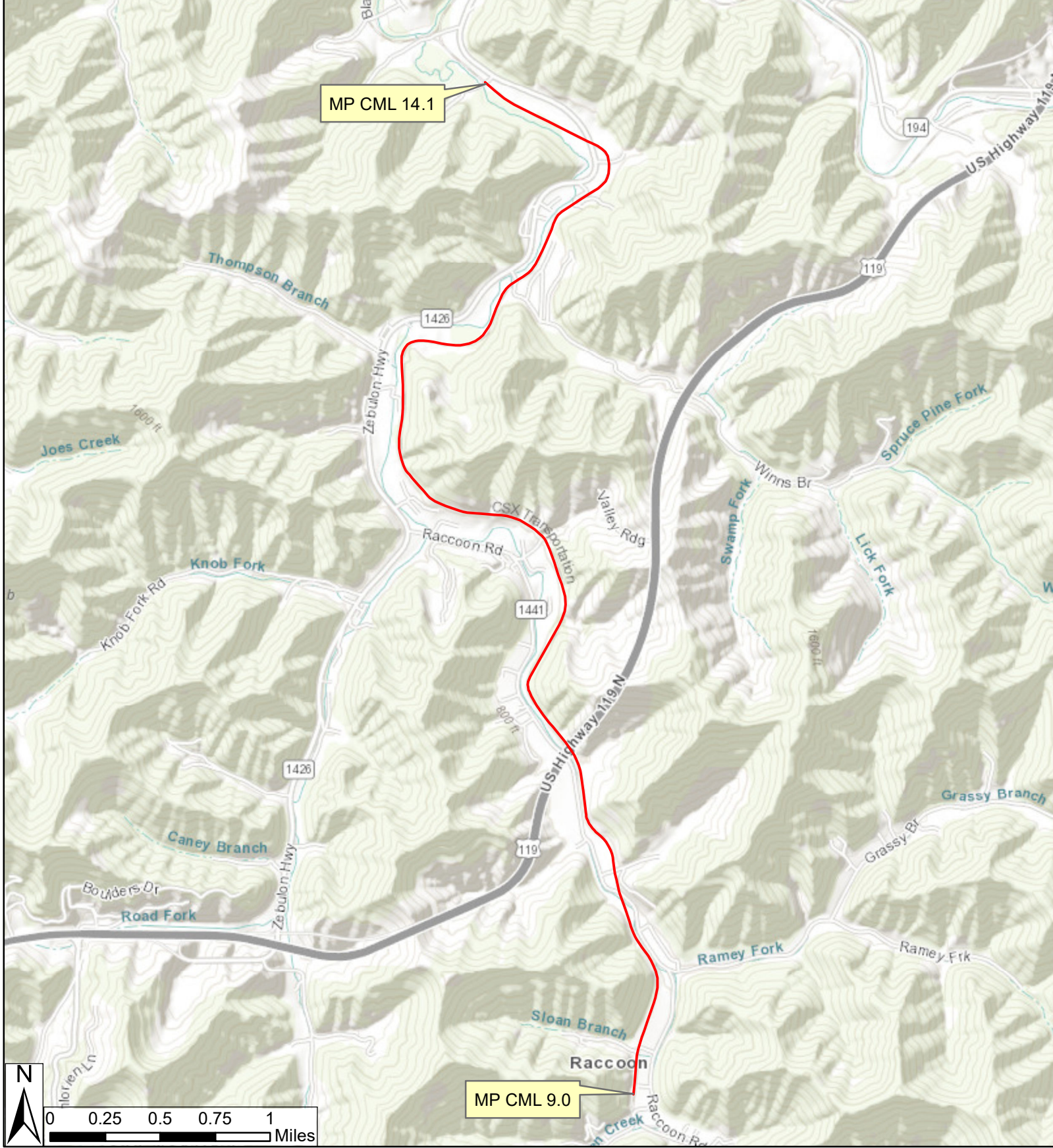
Alternatively, comments submitted by mail should be addressed to: Adam Assenza, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, Attention: Environmental Filing, Docket No. AB 55 (Sub-No. 816X). If you have any questions, please contact Adam Assenza by email at adam.assenza@stb.gov or by phone at 202-245-0301.

Date made available to the public: August 5, 2024.

Comment due date: August 21, 2024.

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

Attachment



STB Docket No. AB 55 (Sub-No. 816X)
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Legend

— the Line

Note: Maps produced by the STB's Office of Environmental Analysis are based on information provided by the applicant and are for reference purposes only.

