

43236
OEA

SERVICE DATE – AUGUST 16, 2013

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB-290 (Sub No. 337X)

**Norfolk Southern Railway Company — Abandonment Exemption —
in Lucas County, Ohio**

BACKGROUND

On July 23, 2013, Norfolk Southern Railway Company (NS) filed with the Surface Transportation Board (Board) a notice under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon 1.00 mile of rail line located in Lucas County, OH (Line). The Line begins at milepost XK 299.3, south of the intersection of Woodstock Avenue and Nebraska Avenue, to milepost XK 300.3, near the intersection of Douglas Road and Dorr Street in the City of Toledo, Lucas County, OH. A map depicting the Line in relationship to the area served is attached to this Environmental Assessment (EA).

According to NS, no rail traffic has moved over the Line in more than two years, and there is no overhead rail traffic. NS also notes that there has been no request for rail service from any shipper on the Line.

The Line does not contain any federally granted rights-of-way. NS states that it may not own fee title to the entire right-of-way and offers no opinion regarding the Line's suitability for other public purposes.

NS intends to salvage the rail, ties and track materials. NS also notes that there are no structures located on the Line that are 50 years old or older. According to NS, salvage would occur only on the top of the rail bed with access via existing access points. The rail bed, subgrades, and drainage systems would remain in place and not be disturbed.

DESCRIPTION OF THE RAIL LINE

The Line passes through an area of mixed residential and industrial use, crossing Nebraska Avenue at-grade. The width of the right-of-way is typically 50 feet and traverses United States Postal Service Zip Codes 43606 and 43607.

ENVIRONMENTAL REVIEW

NS submitted an Environmental Report that concludes that 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. NS served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules (49 C.F.R. § 1105.7(b)).¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

The Line has been out of service for more than two years. Consequently, no rail-to-truck diversions would occur and OEA believes that there would be no impact on existing regional or local transportation systems or patterns. Further, there would be no effect on the movement and/or recovery of energy resources, recyclable commodities or change in overall energy efficiency.

Salvage Activities

If the Board should decide to grant NS the abandonment authority, NS intends to salvage the Line as follows: The salvage process would consist of removing the rail and track material from the existing railbed. The contours of the rail right-of-way would remain unchanged and existing drainage systems would remain intact. Following removal of the rail and track material would be smoothed creating a level surface. No ballast would be removed nor would any soil disturbance occur. No digging or burying would occur. All salvaged steel components would either be reused or sold as scrap. Crossties may be reused in other railroad operations or disposed of in accordance with applicable federal and state laws and regulations. All steel components would either be reused or sold as scrap.

NS does not believe that the proposed abandonment would adversely impact or be inconsistent with existing land use plans. As noted earlier, NS may not own the entire right-of-way, is not aware of any state or local plans that may be facilitated by the proposed abandonment and has no opinion on whether the right-of-way would be suitable for alternative public purposes.

NS also notes that if the abandonment is approved that safety would be enhanced by the removal of five at-grade road crossings.

The Natural Resources Conservation Service (NRCS) has not responded. OEA has provided a copy of this EA to the NRCS for review and comment.

According to NS and as verified by OEA, Lucas County, OH, is in attainment for all National Ambient Air Quality Standard (NAAQS) pollutants. OEA spoke to the Ohio Environmental Protection Agency's local office in Lucas County and was able to verify that

¹The 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 290 (Sub No. 337X).

Lucas County was in attainment for all NAAQS pollutants.

NS states that there are no known hazardous materials waste sites or sites where known hazardous material spills have occurred on or along the Line.

The U.S. Fish and Wildlife Service (USFWS) states that due to the project type, size and location that it does not anticipate any impact on federally listed endangered, threatened, or candidate species or their habitats.

According to NS, the Line does not pass through state parks or forests, national parks or forests, or wildlife sanctuaries. OEA did not identify any National or State parks, wildlife sanctuaries, or refuges that would be affected by the proposed abandonment. The National Park Service (NPS) has not responded. OEA has provided a copy of this EA to the NPS for review and comment.

According to NS, it does not intend to remove or alter the contour of the railbed underlying the Line. NS also notes that no soils would be disturbed as a result of salvage activities and no storm water mitigation or National Pollutant Discharge Elimination System permits would be required. The Line crosses no watercourses and as such there are no plans to undertake any in-stream work, dredge and/or use any fill materials.

The Ohio Environmental Protection Agency states that a permit under Section 402 of the Clean Water Act is not required. The U.S. Army Corps of Engineers, Buffalo District, also states that if the proposed action is limited to the existing railbed and does not involve the discharge of fill within waters of the United States then no Department of Army Section 404 permit would be required.

In an email dated June 25, 2013, the U.S. Department of Commerce, National Geodetic Survey states that there are no Geodetic Station Markers in the area of the proposed abandonment.

Based on all information available to date, OEA does not believe that the proposed abandonment would result in significant environmental impacts.

HISTORIC REVIEW

In its Historic Report, NS states that the Line contains no structures that are 50 years old or older.

According to NS, the Line was originally part of the Erie & Kalamazoo Railroad (E&KR) and completed in 1836, connecting Adrian, MI with Toledo, OH. The E&KR was the first railroad operated west of the Allegheny Mountains and was chartered on April 22, 1833 with the purpose of connecting Port Lawrence, OH (later renamed Toledo) with the Kalamazoo River via Adrian, MI. The first trip was made by a horse-drawn car on November 2, 1836. In addition to being the first railroad constructed west of the Allegheny Mountains, the E&KR was

also the first to operate a steam locomotive. The locomotive, named ‘Adrian No. 1,’ was brought west via the Erie Canal and Lake Erie. The E&KR was also the first railroad to operate as an interstate railroad, carrying U.S. Mail.²

The Line has been operated by a number of predecessor railroads, such as the Michigan Southern Rail Road Company (1849-1855); the Michigan Southern and Northern Indiana Rail Road Company (1855-1869); the Lake Shore and Michigan Southern Railway Company (1869 - 1914); and the New York Central Railroad after 1914, which merged with The Pennsylvania Railroad in 1968 to form Penn Central Transportation Company (Penn Central). Consolidated Rail Corporation assumed operation of the Line following bankruptcy of the Penn Central and in 1999, NS assumed control of the subject Line.

NS served the Historic Report as required by the Board’s environmental rules (49 C.F.R. § 1105.8(a)) and served the report on the Ohio Historical Society (SHPO) pursuant to 49 C.F.R. § 1105.8(c).³ In a letter dated June 18, 2013, the SHPO states that the proposed abandonment and associated abandonment activities would not affect historic properties. The SHPO also notes that no archaeological or architectural investigations are recommended.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 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 through posting on the Board’s website at <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.⁴ The database indicated that the following five tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the area of potential affect or APE) of the proposed abandonment:

1. Delaware Nation, Oklahoma
2. Forest County Potawatomi Community, Wisconsin

² Some historical information obtained from the Michigan Historical Markers Website: <http://www.michmarkers.com/startup.asp?startpage=L1146.htm>.

³ Guidance regarding the Board’s historic preservation review process is available on the Board’s Web site at: <http://www.stb.dot.gov/stb/environment/preservation.html>.

⁴ Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited August 7, 2013).

3. Hannahville Indian Community, Michigan
4. Ottawa Tribe of Oklahoma
5. Wyandotte Nation, Oklahoma

CONDITIONS

We recommend that no conditions be imposed on any decision granting abandonment authority.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the Line would 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 4-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 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 C.F.R. § 1152.29).

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

If you wish to file comments regarding this Environmental Assessment, send original and 2 copies to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Troy Brady, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 290 (Sub No. 337X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Troy Brady, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at Troy.Brady@stb.dot.gov.

Date made available to the public: August 16, 2013.

Comment due date: September 2, 2013.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment