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SEA

SERVICE DATE – DECEMBER 11, 2009

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-1031 (Sub-No. 0X)

**East Tennessee Railway, L.P. – Abandonment Exemption –
in Washington and Carter Counties, TN**

BACKGROUND

In this proceeding, East Tennessee Railway, L.P. (ETRY) 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 Washington and Carter Counties, Tennessee. The rail line proposed for abandonment extends approximately 10 miles from milepost 1.2 in Johnson City to milepost 11.2 in Elizabethton (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 ETRY, the Line was originally built in 1881 as a narrow gauge railroad to haul iron ore from Cranberry, North Carolina. In 1904, a third rail was added to make the railroad dual gauge. The narrow gauge portion was abandoned in the 1950s, and the standard gauge flourished until the mid-1970s. Following a recession, business revived in the early 1980s through the early 1990s but then declined. The last customer closed in 2002. The surrounding area is a mix of rural, residential and commercial.

ENVIRONMENTAL REVIEW

ETRY 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. ETRY 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.

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-1031(Sub-No. 0X).

Diversion of Traffic

According to ETRY, no local traffic has moved over the Line in over seven 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.

The Tennessee Department of Environment and Conservation, Division of Remediation (DOR) stated in a letter dated December 16, 2008 that there are two DOR sites, properties exposed to past contamination, within the area of the proposed abandonment. Via teleconference, DOR advised ETRY that the proposed abandonment would not affect the two DOR sites listed in its December 16th letter.

The Tennessee Department of Environment and Conservation, Ground Water Protection Division commented that it is doubtful that the proposed abandonment would impact existing subsurface sewage disposal systems.

The City of Johnson City (City) expressed interest in acquiring the corridor, including tracks, to preserve it for public use or trails use. The City stated that it anticipates seeking a public use or trails use condition.

The U.S. Fish and Wildlife Service commented that no significant adverse impacts to wetlands or federally listed endangered or threatened species are anticipated from the proposed abandonment. Therefore, no further consultation pursuant to Section 7 of the Endangered Species Act is required.

The U.S. Army Corps of Engineers (Corps) determined that the proposed abandonment would not involve the discharge of fill material into the waters of the United States. Therefore, a Corps permit is not required.

In an e-mail dated November 16, 2009, the U.S. Department of Commerce, National Geodetic Survey (NGS) identified 7 geodetic survey markers that may be disturbed by the proposed abandonment. Therefore, SEA recommends that ETRY consult with NGS prior to the commencement of any salvage activities.

The U.S. Environmental Protection Agency's Region 4 Office (USEPA) has not submitted comments regarding this proposed abandonment. Accordingly, SEA will provide a copy of this EA to USEPA for its review and comment.

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 for its review and comment.

HISTORIC REVIEW

ETRY served the historic report on the Tennessee State Historic Preservation Officer (SHPO), pursuant to 49 CFR 1105.8(c). SEA has not heard from the Tennessee SHPO and therefore has not been able to consider the Tennessee SHPO's opinion before determining if the rail line may be potentially eligible for listing on the National Register of Historic Places (National Register). Accordingly, we are recommending a condition requiring the railroad 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.

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 Eastern Band of Cherokee Indians of North Carolina may have an interest in the proposed abandonment. Accordingly, SEA is sending a copy of this EA to this tribe for its review and comment.

CONDITIONS

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

1. East Tennessee Railway, L.P. (ETRY) shall retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places (generally, 50 years old or older) until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. ETRY shall report back to the Section of Environmental Analysis regarding any consultations with the SHPO and any other Section 106 consulting parties. ETRY 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. East Tennessee Railway, L.P. (ETRY) shall consult with the National Geodetic Survey at least 90 days prior to the beginning of salvage activities that will disturb or destroy any of the 7 geodetic station markers.

CONCLUSIONS

Based on the information provided from all sources to date, SEA 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 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 Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC 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 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-1031 (Sub-No. 0X) 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: December 11, 2009.

Comment due date: December 24, 2009.

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

Attachment