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SEA

SERVICE DATE – JULY 23, 2010

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**DOCKET NO. AB-1064X**

**Fulton County, LLC - Abandonment Exemption - in Fulton County, Ind.**

**BACKGROUND**

In this proceeding, Fulton County, LLC (FC or railroad) filed a notice under 49 C.F.R. § 1152.20 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Fulton County, Indiana (Ind.). The rail line proposed for abandonment is a 1.3-mile segment between Milepost 95.6 (Wabash Road) and Milepost 96.9 (200 feet north of East 18<sup>th</sup> Street) in Rochester, Ind. (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 would be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

**DESCRIPTION OF THE LINE**

The Line is located in the northwestern corner of Indiana. The right-of-way is up 100 feet wide and nearby land use is mostly suburban in nature. According to the railroad, there are no bridges or structures on the Line. FC is not aware of any hazardous waste sites on the Line.

The Line was part of a main line of the New York, Chicago & St. Louis Railroad Company (or Nickel Plate Road) for many years. The Norfolk and Western Railway Company (N&W) acquired the Line following a merger, and N&W sold the Line to FC in 1996.

No local or overhead rail traffic has moved on the Line for at least two years. FC states that if abandonment authority is approved, it intends to convey the right-of-way for railbanking or interim recreational use.

**ENVIRONMENTAL REVIEW**

FC submitted an environmental report that concludes the quality of the human environment would not be affected significantly because of the abandonment or any post-abandonment activities. FC 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 C.F.R. § 1105.7(b)].<sup>1</sup> The Board's Section of Environmental Analysis (SEA) reviewed and investigated the record in this proceeding.

### ***Diversion of Traffic***

Because there is no rail traffic on the Line, 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***

FC would remove track materials for reuse, scrap or resale. FC believes that the proposed abandonment would not be inconsistent with local or regional land use plans.

The Natural Resources Conservation Service states that the proposed abandonment would not cause a conversion of prime farmland. Therefore, the proposed abandonment does not involve the Federal Farmland Protection Policy Act (7 U.S.C. § 4201).

The U.S. Fish and Wildlife Service, Bloomington Field Office states that it has no objections to the abandonment outlined in the railroad's environmental report, and that no additional consultations under Section 7 of the Endangered Species Act of 1973 (16 U.S.C. § 1535) would be necessary.

The U.S. Army Corps of Engineers (Corps) has not responded to the railroad's environmental report. Based on the railroad's description of the Line and salvaging activities, potential impacts to waters of the U.S. would not be expected and a permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344) would not likely be applicable. Nevertheless, SEA has provided a copy of this EA to the Corps for review and comment.

The National Geodetic Survey (NGS) states that no geodetic station markers were identified that could be affected by the proposed abandonment.

The Indiana Department of Natural Resources (IDNR) has not responded to the railroad's environmental report. SEA has provided a copy of this EA to IDNR for review and comment.

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<sup>1</sup> The railroad's environmental and historic reports are available for viewing on the Board's Web site at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB-1064X.

## **HISTORIC REVIEW**

The railroad submitted an historic report as required by the Surface Transportation Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Indiana Division of Historic Preservation and Archaeology (the State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). In a July 1, 2010 reply (Ind. SHPO Ref.: DHPA #9851), the SHPO stated that it had not identified any historic buildings, structures, districts, or objects listed in or eligible for inclusion in the National Register of Historic Places (National Register), or archaeological resources eligible for inclusion in the National Register.

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>.

SEA conducted a search of the Native American Consultation Database at [www.cast.uark.edu/other/nps/nacd/](http://www.cast.uark.edu/other/nps/nacd/) to identify federally recognized tribes that may have ancestral connections to the project area. The database identified the following seven tribes within Fulton County:

- Citizen Potawatomi Nation, Oklahoma;
- Forest County Potawatomi Community, Wisconsin;
- Hannahville Indian Community, Michigan;
- Miami Tribe of Oklahoma;
- Ottawa Tribe of Oklahoma;
- Peoria Tribe of Indians of Oklahoma; and
- Prairie Band of Potawatomi Nation, Kansas.

A copy of this EA has been provided to each tribe for review and comment.

## **CONDITIONS**

We recommend no environmental conditions be imposed on any decision granting abandonment authority:

## **CONCLUSIONS**

Based on the information provided from all sources to date, SEA concludes that the proposed abandonment of the Line, as currently proposed, 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 and no salvage activities), 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 the time specified in the Federal Register notice. 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 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, please send an **original and one copy** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Dave Navecky, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's Web site, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB-1064X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Dave Navecky, the environmental contact for this case, by phone at 202-245-0294, fax at 202-245-0454, or e-mail at [navekyd@stb.dot.gov](mailto:navekyd@stb.dot.gov).

Date made available to the public: July 23, 2010.

**Comment due date: August 10, 2010.**

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

Attachment