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OEA

SERVICE DATE – SEPTEMBER 16, 2016

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 290 (Sub-No. 385X)

Norfolk Southern Railway Company—Abandonment Exemption—in Kalamazoo, Mich.

Docket No. AB 1246X

Grand Elk Railroad, LLC—Discontinuance of Service Exemption—in Kalamazoo, Mich.

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) and Grand Elk Railroad, LLC (GDLK) filed a joint notice of exemption under 49 C.F.R. § 1152 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Kalamazoo, Kalamazoo County, Michigan. The joint notice seeks authority from the Surface Transportation Board (the Board) for NSR to abandon and GDLK to discontinue rail service over the approximately 0.1-mile rail line, which extends from milepost IJ 44.6 to milepost IJ 44.7 in the City of Kalamazoo (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, NSR, as the owner of the Line, will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

NSR submitted a combined Environmental and Historic Report on behalf of NSR and GDLK that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR 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.

¹ The 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. 385X).

Diversion of Traffic

The Environmental Report submitted by NSR states that no traffic has moved over the Line in at least two years and that there have been no requests for service in that time. Accordingly, the proposed abandonment and discontinuance 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

If abandonment and discontinuance authority is granted in this proceeding, NSR states that it would convey the Line to Treystar Holdings, LLC (Treystar), which would be responsible for conducting salvage. Salvage activities would include removing the rail, ties, and related track material from the right-of-way and removing a bridge over Portage Creek, the only structure on the Line. NSR states that Treystar would not remove any ballast, regrade the right-of-way, or disturb the soil underlying the rail right-of-way. Therefore, the contour of the existing underlying roadbed would remain intact and that existing drainage systems would not be altered.

Land Use

The City of Kalamazoo has submitted comments stating that the proposed abandonment and discontinuance would not negatively affect local land use. Because the proposed abandonment would be limited in scope and would take place within an existing rail right-of-way, OEA does not anticipate that the proposed abandonment would be inconsistent with any existing land use plans.

The U.S. Natural Resource Conservation Service (NRCS) has commented that, because salvage activity would take place within an existing rail corridor, the proposed abandonment and discontinuance would not result in the conversion of prime farmland. OEA concurs with the conclusions of NRCS and is not recommending any mitigation related to the conservation of agricultural land is recommended.

The National Geodetic Survey (NGS) has not submitted comments regarding the potential impact of the proposed abandonment to any geodetic survey markers that may be present in the project area. Accordingly, OEA is recommending a condition requiring NSR to consult with NGS prior to beginning salvage activities.

Coastal Zone Compliance

The Michigan Department of Environmental Quality (MDEQ) submitted comments stating that the Line is not located within the Michigan coastal management boundary. Accordingly, no adverse effects to coastal resources are anticipated from the proposed abandonment and discontinuance and no mitigation related to coastal resources is recommended.

Water Resources

The Line crosses Portage Creek, a small stream that enters the Kalamazoo River.² If abandonment and discontinuance authority is granted in this proceeding, the bridge over Portage Creek would be removed.

NSR requested comments from the U.S. Army Corps of Engineers (the Corps) and MDEQ regarding the potential impact of the proposed abandonment and discontinuance on water resources. In its response, the Corps states that a portion of the Corps' regulatory responsibilities in the project area was assumed by the MDEQ. The Corps indicates that the Corps permit would not be required for the proposed abandonment and discontinuance, but that a MDEQ permit may be required. By email dated March 4, 2016, the Water Resources Division of MDEQ informed NSR that MDEQ does not oppose the proposed abandonment and discontinuance and has no further comments regarding potential environmental impacts.

The Environmental Analysis Branch of the Corps submitted comments by letter dated March 29, 2016 stating that the Corps' civil works program does not include any current plans to develop waterways in the vicinity of the Line. The Corps notes that the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps indicate that the mapped floodplains exist in the project area. The Corps notes that effects on floodplains could occur during salvage if the ground surface elevation within the floodplain were to change as a result of salvage activities. The Corps recommends that the project be coordinated with county officials and the State of Michigan regarding the applicability of a floodplain permit to ensure compliance with county and state floodplain management regulations and acts. The Corps notes that, if salvage is limited to the removal of rails and ties, salvage would not be expected to affect floodplains.

By letter dated April 28, 2016, the Corps submitted additional comments stating that the removal of the bridge over Portage Creek could result in increased flood elevations downstream if the bridge is holding back flood flows. The Corps notes that FEMA flood maps indicate that some constriction is present at the location of the bridge, which may be due to the presence of the bridge deck, the creek banks, the rail bed, or some combination of those factors. The Corps recommends that hydraulic modeling be used to assess the potential for adverse effects from the removal of the bridge.

OEA notes that NSR intends to convey the Line to a salvage company for salvage. NSR expects that salvage would consist of removing rail, ties, and related material, and the removal of the bridge over Portage Creek. To address the Corps' concerns regarding potential impacts to floodplains, OEA is recommending a condition requiring NSR to consult with the Corps prior to beginning any salvage activities regarding the potential for impacts to floodplain management resulting from the removal of the Portage Creek bridge and to comply with the recommendations of that agency to avoid or mitigate any such impact.

² U.S. Fish and Wildlife Service, National Wetlands Inventory, <http://www.fws.gov/wetlands/Data/Mappper.html> (last visited September 12, 2016).

Hazardous Materials

NSR states that there are no hazardous waste sites or sites where hazardous material spills have occurred on or adjacent to the right-of-way. OEA's review has confirmed that there are no federally listed remediation sites in the vicinity of the Line.³ Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

Biological Resources

The U.S. Fish and Wildlife Service (USFWS) submitted comments identifying federally listed threatened and endangered species that may be located in the vicinity of the Line. OEA also conducted a search of the USFWS Information, Planning, and Conservation System in order to identify protected species.⁴ The table below shows the protected species known or thought to occur in Kalamazoo County, Michigan, as identified by USFWS and by OEA's search. OEA notes that, based on a search using the USFWS critical habitat mapping tool, the Line is not located in or near critical habitat for any of the species identified.⁵

Protected Species in Kalamazoo County, Michigan	
Mammals	Status
Indiana bat (<i>Myotis sodalist</i>)	Endangered
Northern long-eared bat (<i>Myotis septentrionalis</i>)	Threatened
Reptiles	
Eastern Massasauga (<i>Sistrurus catenatus</i>)	Proposed Threatened
Insects	
Mitchell's Satyr Butterfly (<i>Neonympha mitchellii mitchellii</i>)	Endangered

The Indiana bat (*Myotis sodalist*) and Northern long-eared bat (*Myotis septentrionalis*) are typically found in forests, where the bats roost during in trees during the summer, or caves, where they hibernate in the winter. Mitchell's satyr butterfly (*Neonympha mitchellii mitchellii*) is restricted to fens, a type of wetland typically associated with groundwater from seeps and springs. The Eastern Massasauga rattlesnake (*Sistrurus catenatus*) is not currently listed as a federally protected threatened or endangered species but is proposed for listing as threatened;

³ Environmental Protection Agency, NEPAassist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last September 14, 2016).

⁴ U.S. Fish and Wildlife Service, Information, Planning, and Conservation System, <http://ecos.fws.gov/ipac/> (last visited September 14, 2016).

⁵ U.S. Fish and Wildlife Service, Critical Habitat Portal, [http://ecos.fws.gov/crithab/](http://ecos.fws.gov/ipac/http://ecos.fws.gov/crithab/) (last visited September 14, 2016).

individuals of this species are typically found in wet areas, including marshes and areas along rivers and lakes.

OEA notes that the Line is located in a heavily developed and largely industrial area within the City of Kalamazoo. Based on the information available to date, including OEA's review of satellite imagery of the project area, OEA believes that it is unlikely that suitable habitat exists within the project area for any of the species identified above. Because salvage activities would be limited in scope and confined to an existing rail right-of-way in a developed area, OEA believes that the proposed abandonment and discontinuance would not adversely affect any individuals of those species that might be present. However, because the Line crosses a waterway and adjacent areas where wetlands may exist, OEA is recommending a condition requiring NSR to consult with USFWS prior to conducting salvage activities and to comply with the recommendations of that agency regarding avoiding or mitigating potential impacts to protected species.

Air Quality

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality.

Noise

Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Summary

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is providing a copy of this EA to the following agencies for review and comment: USFWS, NGS, and the Corps.

HISTORIC REVIEW

According to NSR, the Line was constructed between 1886 and 1888 as part of the Chicago, Kalamazoo, and Saginaw Railway (CK&S). Ownership of the Line passed to Michigan Central Railroad (MC) in 1906 and to New York Central Railroad (NYC) in 1930. In 1968, NYC and the Pennsylvania Railroad merged to form the Penn Central Transportation Company (Penn Central), which went bankrupt in 1970. In 1976, Penn Central, along with a number of other bankrupt railroads, was reorganized into the Consolidated Rail Corporation (Conrail). Conrail commenced operations and assumed control of the Line on April 1, 1976. NSR acquired the Line in 1999.

The only structure on the Line is a bridge over Portage Creek located approximately at Milepost IJ 44.65. The bridge has two spans with an open deck, I-Beam on framed bents with stone and concrete abutments. The date of construction of the bridge is unknown.

NSR served the Historic Report on the Michigan State Historic Preservation Office (SHPO), pursuant to 49 C.F.R. § 1105.8(c). The SHPO has submitted comments stating that the proposed abandonment and discontinuance would have no effect on historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register). The SHPO requests that, should project plans change or should artifacts or remains be encountered during salvage activities, NSR should cease work and report to the SHPO immediately. OEA has reviewed the record and the information provided by the SHPO, and concurs with the SHPO's comments. We are therefore recommending a condition requiring NSR to cease abandonment activities and report to the SHPO and OEA in the event that unanticipated archaeological sites or artifacts are discovered.

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 no known historic properties listed in or eligible for inclusion in the National Register would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment. 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 www.stb.dot.gov.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally recognized tribes that may have ancestral connections to the project area.⁶ The database indicated that the following federally recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment:

- Citizen Potawatomi Nation, Oklahoma;
- Forest County Potawatomi Community, Wisconsin;
- Hannahville Indian Community, Michigan;
- Nottawseppi Huron Band of the Potawatomi, Michigan;
- Ottawa Tribe of Oklahoma;
- Pokagon Band of Potawatomi Indians, Michigan and Indiana;
- Prairie Band of Potawatomi Nation; and
- Saginaw Chippewa Indian Tribe of Michigan.

Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

⁶ National Park Service, National NAGPRA Program Native American Consultation Database, <http://grantsdev.cr.nps.gov/Nagpra/NACD/> (last visited September 14, 2016).

CONDITIONS

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

- 1. Prior to the commencement of any salvage activities, Norfolk Southern Railway Company (NSR) shall consult with the National Geodetic Survey (NGS). If NGS identifies geodetic station markers that may be affected by the proposed abandonment, NSR shall notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers in order to plan for the possible relocation of the geodetic station markers by NGS.**
- 2. Prior to the commencement of any salvage activities, Norfolk Southern Railway Company (NSR) shall consult with the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of salvage activities on federally listed threatened and endangered species in the project area and shall comply with the reasonable recommendations of USFWS to mitigate any potential impacts. NSR shall report the results of any consultations with USFWS to the Board's Office of Environmental Analysis.**
- 3. Prior to the commencement of any salvage activities, Norfolk Southern Railway Company (NSR) shall consult with the U.S. Army Corps of Engineers (the Corps) regarding the potential impact of salvage activities on floodplain management and shall comply with the reasonable recommendations of those agencies. NSR shall report the results of any consultations with the Corps to the Board's Office of Environmental Analysis.**
- 4. In the event that any unanticipated archaeological sites or associated artifacts are discovered during salvage activities, Norfolk Southern Railway Company (NSR) will immediately cease all work and notify the Office of Environmental Analysis (OEA) and the Michigan State Historic Preservation Office (SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA shall then consult with the SHPO, NSR, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.**

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is imposed, 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 would 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 Federal Register notice.

TRAILS USE

Requests for a notice of interim trail use (NITU) are 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 an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Joshua Wayland, 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. 385X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at waylandj@stb.dot.gov.

Date made available to the public: September 16, 2016.

Comment due date: October 3, 2016.

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