

SURFACE TRANSPORTATION BOARD

DECISION

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

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
LUCAS COUNTY, OHIO

Decided: March 15, 2013

This decision reopens the proceeding to remove the previously imposed Section 106 historic preservation condition.

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 C.F.R. § 1152 Subpart F—Exempt Abandonments to abandon a 2.82-mile line of railroad between milepost TW 0.00 and milepost TW 2.82 in Toledo, Lucas County, Ohio. Notice of the exemption was served and published in the Federal Register on June 27, 2008 (73 Fed. Reg. 36,585-86). The exemption was scheduled to become effective on July 29, 2008.

By decision served on July 28, 2008, the Board imposed three environmental conditions recommended by the Board's Office of Environmental Analysis (OEA)¹ in an Environmental Assessment served on July 3, 2008. One of the conditions, a historic preservation condition, required NSR 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 right-of-way that are eligible for listing or are listed in the National Register of Historic Places until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470(f) (NHPA). That condition also required NSR to report back to OEA regarding any consultations with the Ohio State Historic Preservation Office (SHPO) or any other Section 106 consulting parties and prohibited NSR from filing its consummation notice or initiating any salvage activities related to the proposed abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition. In this decision, the Board is removing the historic preservation condition.²

In a supplemental final environmental assessment dated September 29, 2011, OEA advises that, on September 26, 2011, it submitted to the Advisory Council on Historic Preservation an executed Memorandum of Agreement among the Board, the SHPO, and NSR, which resolves any adverse effects to historic properties and completes the Board's compliance

¹ Previously, the Section of Environmental Analysis (SEA).

² The other two conditions, which are salvage-related, remain in effect but are not barriers to consummation.

responsibilities under Section 106 of NHPA. Therefore, OEA recommends that the Section 106 historic preservation condition imposed in the July 2008 decision be removed.

Based on OEA's recommendation, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the Section 106 historic preservation condition imposed in the July 28, 2008 decision is removed.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.