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SERVICE DATE – LATE RELEASE JANUARY 24, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 272X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
McDOWELL COUNTY, WV

Decided: January 24, 2007

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 2.5-mile line of railroad between milepost CB 0.0 and milepost CB 2.5, in Caretta, in McDowell County, WV. Notice of the exemption was served and published in the Federal Register on December 26, 2006 (71 FR 77438). The exemption is scheduled to become effective on January 25, 2007.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on December 29, 2006. In the EA, SEA notes that the West Virginia Division of Culture and History (State Historic Preservation Officer, or SHPO) had requested information from NSR regarding five bridges on the line that are 50 years old or older. SEA notes in the EA that NSR had provided the information to the SHPO. According to SEA, the SHPO indicated that, because NSR would not be removing any track or bridges, and would sell the right-of-way to a private party, the proposed abandonment would not affect architectural resources that are eligible for listing or are listed in the National Register of Historic Places (National Register). However, the SHPO also indicated to SEA that, should NSR decide to conduct salvage activities, the consultation process pursuant to section 106 of the National Historic Preservation Act, 16 U.S.C. 470(f) (NHPA) should be reinitiated. Therefore, SEA recommends that, should NSR decide to salvage the line, NSR be required to reinitiate the consultation process of section 106 of the NHPA, and 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 that are eligible for listing or are listed in the National Register until completion of the section 106 process. In addition, SEA recommends that NSR be required to report to SEA regarding any consultations with the SHPO and any other section 106 consulting parties, and to refrain from initiating 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.

Comments to the EA were due by January 16, 2007. No comments to the EA were received by the due date. Accordingly, the condition recommended by SEA in the EA will be imposed. Based on SEA's recommendation, the proposed abandonment, if implemented as conditioned, 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 exemption for abandonment of the line described above is subject to the condition that, in the event NSR does not sell or lease the rail line for continued rail use, and decides to salvage the line, prior to beginning any salvage activities, NSR shall reinitiate the consultation process pursuant to section 106 of the NHPA, and 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 that are eligible for listing or are listed in the National Register until completion of the section 106 process. In addition, NSR shall report to SEA any consultations with the SHPO and any other section 106 consulting parties, and refrain from initiating 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.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary