

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 290 (Sub-No. 336X)

**Norfolk Southern Railway Company – Abandonment and Discontinuance of Service
Exemption – in Lake County, Ind. and Cook County, Ill.**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 to abandon approximately 6.3 miles of rail line in Lake County, Indiana, and Cook County, Illinois, and to discontinue service over an adjoining 1.2 mile segment of rail line in Cook County, Illinois.¹ The 6.3-mile rail line proposed for abandonment extends from milepost JH 12.80 to milepost JH 19.10 (the Line). A map depicting the Line in relationship to the area served is appended to this 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 NSR, the Line was built in 1855 by the Joliet and Northern Indiana Railroad. NSR states that the right-of-way width ranges from 40 to 100 feet along the main track center line. The Line passes through suburban areas, and there are four bridges on the Line. NSR states that the purpose of the abandonment is to permit use of a portion of the right-of-way at milepost JH-15.84 at Lynwood, Illinois, for construction of a viaduct providing grade separation between US Route 30 and the Elgin, Joliet and Eastern Railway Company track, which is adjacent to the Line.

ENVIRONMENTAL REVIEW

NSR 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-

¹ Because NSR seeks to discontinue service over this 1.2 mile segment of rail line, not abandon it, environmental and historic documentation is not required under 49 C.F.R. §§ 1105.6(c)2 and 1105.8. There would be no potential for environmental impacts because no train traffic would be diverted and no salvage would occur on this section of track. Therefore, this EA only analyzes the 6.3-mile rail line that NSR seeks to abandon.

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 Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].² The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to NSR, no local traffic has moved over the Line for at least two 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 Illinois Environmental Protection Agency (Illinois EPA) stated that it has no objections to the project. However, Illinois EPA indicated that a National Pollutant Discharge Elimination System (NPDES) permit from the Division of Water Pollution Control would be required if grading or excavation activities were to disturb one acre or more. Illinois EPA also noted that solid and hazardous waste should be properly disposed of or recycled. Accordingly, we recommend that a condition be imposed upon any decision granting abandonment authority requiring NSR to consult with the Illinois EPA, Division of Water Pollution Control regarding NPDES permit requirements.

The Illinois Department of Natural Resources stated that the proposed abandonment would be consistent with the Illinois Coastal Management Plan (ICMP) because the proposed work would be outside the boundaries of the ICMP and would not affect any coastal use or resource of the ICMP.

The Board of Commissioners and the Lake County Plan Commission indicated that their plan for development does not cover the area encompassed by the proposed abandonment.

² 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-290 (Sub-No. 336X).

The U.S. Fish and Wildlife Service, Bloomington Field Office (USFWS) submitted comments stating that there are some protected wetlands in the area of the proposed abandonment, but that they would not be impacted by the proposed track removal. USFWS also stated that the tracks cross four streams, but that these streams would not be adversely affected by the proposed abandonment. USFWS indicated that the proposed abandonment would be within the range of various federally endangered and threatened species. However, USFWS stated that there is no known habitat, and no designated Critical Habitat, for any of these species within the proposed project area. USFWS concurs with NSR that the proposed abandonment would not likely adversely affect any threatened and endangered species. Therefore, no further consultation under Section 7 of the Endangered Species Act is required.

The Natural Resources Conservation Service commented that the proposed abandonment would have no impact on prime or important farmlands.

Based on all information available to date, OEA 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, OEA is providing a copy of this EA to Illinois EPA for its review and comment.

HISTORIC REVIEW

NSR served the historic report on the Illinois and Indiana State Historic Preservation Officers (SHPO(s)), pursuant to 49 C.F.R. § 1105.8(c). The Illinois SHPO submitted comments stating that no historic properties would be affected by the proposed abandonment. However, OEA has not heard from the Indiana SHPO and therefore has not been able to consider the Indiana SHPO's opinion before determining whether the proposed project could affect historic properties. 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 in Indiana 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 of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database at <http://grants.cr.nps.gov/nacd/index.cfm> to identify federally-recognized tribes which may have ancestral connections to the project area. The database indicated that the following tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment: the Citizen Potawatomi Nation, Oklahoma, the Forest County Potawatomi Community, Wisconsin, the Hannahville Indian Community, Michigan, and the Prairie Band of Potawatomi Nation, Kansas. Accordingly, OEA is sending a copy of this EA to these tribes for review and comment.

CONDITIONS

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

1. Prior to commencement of any salvage activities, Norfolk Southern Railway Company shall consult with the Illinois Environmental Protection Agency, Division of Pollution Control regarding National Pollutant Discharge Elimination System permit requirements.
2. Norfolk Southern Railway Company (NSR) shall retain its interest in and take no steps to alter the historic integrity of all sites, buildings, structures, and objects within the project right-of-way in Indiana 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. NSR shall report back to the Office of Environmental Analysis regarding any consultations with the State Historic Preservation Officer, any other Section 106 consulting parties, and the public. NSR 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.

CONCLUSIONS

Based on the information provided from all sources to date, OEA 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 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

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 C.F.R. § 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 Services, 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-290 (Sub-No. 336X) 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: September 28, 2012.

Comment due date: October 12, 2012.

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

Attachment