

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 70 (Sub-No. 6X)

FLORIDA EAST COAST RAILWAY, L.L.C.—ABANDONMENT  
EXEMPTION—IN MIAMI-DADE COUNTY, FLA.

Decided: March 10, 2016

Florida East Coast Railway, L.L.C. (FEC) filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 1.21-mile rail line on its South Little River Branch Line, between mileposts LR 11+3989 and LR 13+0000 (the Line), in Miami-Dade County, Fla. Notice of the exemption was served and published in the Federal Register on February 10, 2016 (81 Fed. Reg. 7,185). The exemption is scheduled to become effective on March 11, 2016.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on February 16, 2016. In the EA, OEA stated that Miami-Dade County is within a designated coastal zone and the Florida Department of Environmental Protection, Division of Water Resource Management (FDEP) had not yet completed its review of the proposed abandonment. Accordingly, OEA recommended a condition, pursuant to the Coastal Zone Management Act, 16 U.S.C. § 1451, and the Board's environmental regulations at 49 C.F.R. § 1105.9, requiring FEC to consult with FDEP and obtain state coastal management consistency certification.

OEA further stated in the EA that FEC served the Historic Report on the Florida State Historic Preservation Office (SHPO). The SHPO submitted comments stating that additional information was needed in order to complete its review of the proposed abandonment. Accordingly, OEA recommended that a condition be imposed requiring FEC 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 eligible for listing or 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. § 470f.

Comments to the EA were due by March 2, 2016. In the Final EA, OEA states that it received comments from FDEP. FDEP confirmed that the proposed abandonment does not require state coastal management consistency certification pursuant to the Coastal Zone Management Act. OEA therefore recommends removing the recommended condition requiring FEC to consult with FDEP to obtain statement coastal management consistency certification. However, OEA recommends replacing the prior recommendation with a condition requiring FEC to consult with the South Florida Water Management District (SFWMD) prior to conducting

salvage activities over the Tamiami Canal. Based on OEA's recommendations, this proceeding will be reopened and the conditions recommended by OEA in the Final EA will be imposed.

This action, as conditioned, will not significantly impact 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 notice served and published in the Federal Register on February 10, 2016, exempting the abandonment of the Line described above is subject to the following conditions. First, FEC shall 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 (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed. FEC shall report to OEA regarding any consultations with the SHPO and the public, and FEC 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. Second, prior to commencement of salvage activities, FEC shall contact SFWMD in order to discuss local concerns regarding the safety and condition of the bridges and railroad trestles on the Tamiami Canal.

3. This decision is effective on its service date.

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