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OEA

SERVICE DATE – DECEMBER 23, 2011

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB-1076 (Sub-No. 1X)**

**Caddo Valley Railroad Company —Abandonment Exemption—  
in Clark and Pike Counties, Ark.**

**BACKGROUND**

The Norman Branch Line is a 52 mile long rail line that extends from Gurdon to Birds Mill, Arkansas. On October 27, 2011, Caddo Valley Railroad Company (CVRR) filed two proceedings with the Surface Transportation Board (Board) seeking to abandon two portions of the Northern Segment of the Norman Branch. The Board's Office of Environmental Analysis (OEA) issued an Environmental Assessment in the Notice of Exemption filing (Docket No. AB-1076X) on November 21, 2011, with comments due December 11, 2011. The Board recently (on December 13, 2011) issued a decision extending the deadline for filing offers to purchase the line segment sought to be abandoned in AB-1076X to coincide with the with the later deadline for offers to purchase the adjoining segment assessed in this EA. AB-1076X concerns the proposed abandonment of 32.2 miles along the northern portion of the Norman Branch Line, from milepost 447 to 479.2. As described below, the proposal assessed here concerns the potential abandonment of 17.55 miles of the northern portion of the Norman Branch Line from milepost 429.45 to 447.<sup>1</sup> Although OEA has issued two Environmental Assessments to address the different timeframes triggered by applicant's filing of a notice and a petition, the potential environmental impacts of both abandonments have been examined in each Environmental Assessment together to ensure that possible cumulative impacts have been assessed.

In this proceeding, CVRR filed a petition under 49 U.S.C. § 10502 for exemption from the provisions of 49 U.S.C. § 10903 to abandon a segment of the Norman Branch Line extending between milepost 429.45, near Gurdon, and milepost 447, near Antoine, a distance of 17.55 miles, in Pike and Clark Counties, Arkansas (Line). A map depicting the Line in relationship to the area served is attached to this Environmental Assessment (EA). CVRR states that the Line does not contain any Federally granted rights-of-way and traverses United States Postal Service Zip Codes 71943 and 71922.

CVRR states that all rail service over the Line ceased in May 2009, the result of deteriorated track conditions and adverse financial circumstances.

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<sup>1</sup> On September 29, 2011, AKMD reacquired the southern segment of the Norman Branch extending from milepost 426.88 in Gurdon to milepost 429.45 north of Gurdon.

CVRR acquired the entire Norman Branch from Arkansas Midland Railroad Company, Inc. (AKMD) in September 2000, pursuant to a Feeder Line Development Program, 49 U.S.C. § 10907.<sup>2</sup> According to CVRR, it successfully operated the Norman Branch Line for several years until it began to experience operational and financial difficulties.

Because of the operational and financial difficulties, CVRR entered into negotiations with Pioneer Rail Corporation (Pioneer) in 2005, seeking to have Pioneer acquire CVRR's outstanding common stock. Prior to Pioneer finalizing the transaction, AKMD filed a Petition for Declaratory Order asking the Board to determine if the right of first refusal provided in 49 U.S.C. 10907(h) applies when ownership of a feeder line is transferred through a stock sale. AKMD asserted that CVRR could not dispose of its interest in the line through stock sale without according AKMD the right of first refusal to buy back the line. In a decision issued on May 2, 2007, the Board agreed with the arguments advanced by AKMD and found that CVRR could sell its stock to Pioneer only after first providing AKMD the opportunity to buy back the line.<sup>3</sup> As noted above, AKMD reacquired the southern segment of the Norman Branch in 2011.

CVRR states that its financial condition has continued to deteriorate, further affecting its ability to maintain northern segment the Norman Branch. As a result, both remaining shippers on the northern segment of the Norman Branch—CertainTeed and Bean Lumber—have turned to transload operations to meet their needs. According to CVRR, CertainTeed continues to utilize truck-to-rail transload service while Bean Lumber has since declared bankruptcy and ceased all operations.

If the Board should approve this abandonment, CVRR would salvage the Line. Salvage would consist of the removal of rail, crossties, and possibly the upper layer of the ballast. CVRR anticipates that it would enter into an agreement with Southwest Arkansas Regional Intermodal Authority, which would railbank the right-of-way and as such, all bridges would remain in place. CVRR also notes that the Line could be used for a pedestrian trail or for public utility occupations.

## **DESCRIPTION OF THE RAIL LINE**

According to CVRR, the Line traverses a rural portion of southwest Arkansas and crosses multiple streams and rivers, including the Caddo, Antoine, and Little Missouri Rivers. The topography surrounding the Line is generally level and the width of the right-of-way is generally 100 feet in width. The Line contains 7 bridge structures, all of unknown age. As stated earlier, if the Board should approve this abandonment, CVRR would salvage the track materials and

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<sup>2</sup> Caddo Antoine et al. – Feeder Line Acquisition – Arkansas Midland RR, 4 S.T.B. 326 (1999), 4 S.T.B. 610 (200), aff'd sub nom. GS Roofing Products Co. v STB, 262 F.3d 767 (8<sup>th</sup> Cir. 2001).

<sup>3</sup> STB Finance Docket No. 34865, Arkansas Midland Railroad Company, Inc., - Petition for Declaratory Order – Caddo Valley Railroad Company.

possibly the upper layer of ballast but would leave all bridges, sub-grade and sub-grade structures in place.

## **ENVIRONMENTAL REVIEW**

CVRR submitted an Environmental Report that concludes that 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. CVRR 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)).<sup>4</sup> The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

### ***Diversion of Traffic***

As noted above, only 2 shippers have used the Line, Bean Lumber, which is affiliated with CVRR, and GS Roofing Products Company, Inc., a subsidiary of CertainTeed Corporation. In fact, these are the only 2 shippers to have used the Line in the last 10 years.

CVRR also notes that all rail service ceased in May 2009 and that no local or overhead traffic has moved over the Line in more than 2 years. CVRR also states that it has not received any complaints regarding the cessation of service. Therefore, if the Board were to approve this abandonment (and the associated abandonment in AB-1076X), it appears that there would be no impact on existing regional or local transportation systems or patterns. CVRR also notes that because no rail traffic has moved over the Line in more than 2 years that there would be no effect on the movement and/or recovery of energy resources, recyclable commodities or change in overall energy efficiency.

### ***Salvage Activities***

If the Board should approve the proposed abandonment, CVRR would salvage the track materials and possibly the upper layer of ballast. Furthermore, CVRR notes states that it anticipates entering into an agreement with Southwest Arkansas Regional Intermodal Authority, which would railbank the right-of-way consisting of easements dating back to the 19<sup>th</sup> and early part of the 20<sup>th</sup> Centuries. If approved, OEA notes that salvage would generally occur as follows:

The salvage process would be accomplished by use of right-of-way access, along with existing public and private crossings and no new access roads are contemplated. Salvage

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<sup>4</sup> The Environmental and Historic Reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB 1076 (Sub-No. 1X).

generally does not disturb any of the underlying roadbed or engage in any dredging or use of fill in the removal of the track material.

CVRR would transport crossties and/or other debris away from the Line and would not discard them along the right-of-way. Nor would CVRR place crossties and rail line debris in streams or wetlands or along the banks of such waterways. During track removal, appropriate measures would be implemented to prevent or controls spills from fuels, lubricants or any other materials from entering any watercourses.

### ***Comments***

CVRR is unaware of any adverse effects the proposed abandonment would have on local and existing land use plans. The Natural Resources Conservation Service, which was also consulted regarding potential impacts in AB-1076X, indicates that the proposed abandonment would not result in any adverse environmental effects.

The Arkansas State Highway and Transportation Department states that it would submit comments directly to the Board by December 12, 2011. As of the December 15, 2011, no comments have been received.

The Arkansas Natural Resources Commission (ARNC) supports the proposed abandonment, but with the following comments. The ARNC, Water Management Division (ARNC-WMD) states that it has no objections to the proposed abandonment so long as the mitigation process (avoid, minimize, and compensate) is adhered to in regards to wetlands and streams. The ARNC-WMD also recommends that the most current best management practices (BMPs) be made a part of the planning process for the removal of the tracks and crossties. To ensure that the ARNC-WMD's concerns are addressed, OEA will recommend that the Board impose a condition requiring CVRR to consult with the ARNC-WMD prior to beginning of any salvage operations.

The U.S. Fish and Wildlife Service, Arkansas Ecological Services Office (USFWS) states that the following federally listed threatened and endangered species are known to occur in the region: 1) Ouachita rock-pocketbook (*Arkansia wheeleri*), 2) Pink mucket (*Lampsilis abrupta*), 3) Red-cockaded woodpecker (*Picoides borealis*), 4) winged mapleleaf (*Quadrula fragosa*), 5) Florida panther (*Felis concolor coryi*), 6) scaleshell (*Leptodea leptodon*), 7) Arkansas fatmucket (*Lampsilis powellii*), and 8) piping plover (*Charadrius melodus*). In addition the following 2 candidate species are also known to occur in the area: 1) spectaclecase (*Cumberlandia monodonta*) and 2) rabbitsfoot (*Quadrula cylindrical cylindrical*). Although OEA believes that if CVRR conducted salvage activities entirely within its right-of-way and would access the Line using existing roads and streets, such salvage operations would not impact the federally listed endangered, threatened or candidate species. To ensure that USFWS is aware of how salvage would proceed, OEA will recommend that the Board impose a condition requiring CVRR consult with the USFWS prior to beginning any salvage operations.

OEA notes that the following State Commissions had no comment: The Arkansas Game and Fish Commission, Arkansas Forestry Commission and the Arkansas Geologist Commission.

CVRR states in its Environmental Report that there are no known hazardous waste sites or sites where known hazardous material spills have occurred on or along the right-of-way. The Arkansas Department of Environmental Quality concurs with CVRR.

The Arkansas Department of Environmental Quality, Water Division, notes that the abandonment would not likely cause violations of the State's Water Standards. However, should any of the stream crossings be demolished or repaired, such activity would require additional review. OEA notes that CVRR does not intend to remove any of the bridge structures.

CVRR does not anticipate that it would require any Section 402 permits from the U.S. Army Corps of Engineers, Vicksburg District (Corps). To date, the Corps has not responded. OEA will add the Corps to the distribution list for this EA.

In an email dated November 14, 2011, the U.S. Department of Commerce, National Geodetic Survey (NGS) states that there are approximately 42 geodetic survey markers located in the area of the proposed abandonment. OEA will recommend that CVRR consult with the NGS prior to the commencement of any salvage activities to allow for relocation of any affected survey markers.

Based on all information available to date, and if the Board imposes the recommended mitigation, OEA does not believe that salvage activities would cause significant environmental impacts.

## **HISTORIC REVIEW**

In its Historic Report, CVRR states that it does not have any information regarding the 7 bridge structures or their ages. CVRR does not believe that the Line is associated with any event that has made a contribution to the broad patterns of history; or were not associated with lives of persons significant to our past; do not embody the distinctive characteristics of a type, period, or method of construction; and do not represent a significant and distinguishable entity whose component may lack individual distinction and have not or may not be likely to yield information important in prehistory or history. Furthermore, CVRR states that all bridges, sub-grade, and sub-grade structures would remain in place and would not be salvaged.

Since its completion in the early part of this century, the Norman Branch has been operated as a single line of railroad extending from its point of interchange with what was formerly the Missouri Pacific Railroad (now a part of the Union Pacific Railroad) at milepost 426.3 near Gurdon, Arkansas, to milepost 479.2 near Birds Mill, Arkansas. AKMD acquired the Line from UP in February 1992 and, as discussed above, in September 2000, CVRR acquired the Line from AKMD pursuant to the Feeder Railroad Development Program.

CVRR submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Department of Arkansas Heritage, Arkansas Historic Preservation Program (SHPO) pursuant to 49 C.F.R. § 1105.8(c). In a letter dated November 29, 2011, the SHPO states that the Glenwood Depot and the Rock Creek Railroad Bridge<sup>5</sup> are in the National Register of Historic Places, while the status of the Rosboro School is undetermined. The SHPO also notes that it does not consider the removal of rails and crossties to be an adverse effect and concurs that if the above referenced properties are avoided, that the abandonment would have no adverse effect on historic properties. Furthermore, the SHPO states that because CVRR would not engage in the disturbance of soil along the Line, that there would be no impact on any archeological sites that may exist. Based on available information, the SHPO has submitted comments stating that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment.

In AB-1076X, OEA recommended that the Board impose a "Section 106" historic preservation condition because the SHPO's review of the proposed abandonment in that case was still on-going. We will re-examine whether that condition recommended in the EA conducted for AB-1076X is still necessary.

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 the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. 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 <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.<sup>6</sup> The database indicated that there are no federally-recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment.

## **CONDITIONS**

We recommend that the following 3 conditions be imposed on any decision granting abandonment authority:

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<sup>5</sup> In an email dated December 5, 2011, CVRR states that the Rock Creek Railroad Bridge is located in Yell County, Arkansas.

<sup>6</sup> Native American Consultation Database, <http://home.nps.gov/nacd/> (last visited December 15, 2011).

- 1. Caddo Valley Railroad Company (CVRR), shall contact the Arkansas Natural Resources Commission, Water Management Division (ARNC-WMD) prior to beginning salvage activities to discuss potential impacts to any federally listed endangered or threatened species. Should any potential impacts be identified, CVRR shall consult with OEA and ARNC-WMD to develop appropriate mitigation measures.**
- 2. Caddo Valley Railroad Company (CVRR), shall contact the U.S. Fish and Wildlife Service, Arkansas Ecological Services Office (USFWS) prior to beginning salvage activities to discuss potential impacts to any federally listed endangered or threatened species. Should any potential impacts be identified, CVRR shall consult with OEA and USFWS to develop appropriate mitigation measures.**
- 3. Caddo Valley Railroad Company shall consult with the National Geodetic Survey at least 90 days prior to the beginning of salvage activities that will disturb or destroy any geodetic station markers.**

## **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, that 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 4-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 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 original and 2 copies to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Troy Brady, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB-1076 (Sub-No. 1X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Troy Brady, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at [Troy.Brady@stb.dot.gov](mailto:Troy.Brady@stb.dot.gov).

Date made available to the public: December 23, 2011.

**Comment due date: January 23, 2012.**

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

Attachment