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SERVICE DATE – OCTOBER 5, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1073X

ALABAMA & FLORIDA RAILWAY CO., INC.—ABANDONMENT EXEMPTION—IN
GENEVA, COFFEE AND COVINGTON COUNTIES, ALA.

Decided: October 5, 2011

This decision reopens the proceeding to modify the previously imposed Section 106 historic preservation condition and impose a new environmental condition.

Alabama & Florida Railway Co., Inc. (A&F) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon its line of railroad (which constitutes A&F's entire rail system) between milepost 581.3 at Andalusia, Ala., and milepost 624.2 at Geneva, Ala., a distance of 42.9 miles, in Geneva, Coffee and Covington Counties, Ala. (the line). Notice of the exemption was served and published in the Federal Register on August 9, 2011 (76 Fed. Reg. 48,941-42). The exemption became effective on September 8, 2011.

By decision served on September 7, 2011 (September 7 decision), the proceeding was reopened at the request of the Board's Office of Environmental Analysis (OEA) and the exemption was made subject to a historic preservation condition under Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470f (NHPA).¹ That condition required A&F to (1) 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 (ROW) that are eligible for listing or are listed in the National Register of Historic Places (National Register) until the Section 106 process of the NHPA has been completed, (2) report back to OEA regarding any consultations with the State Historic Preservation Office (SHPO), any other Section 106 consulting parties, and the public, and (3) refrain from filing its consummation notice or 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.

On September 15, 2011, A&F submitted a letter from the SHPO, the Alabama Historical Commission, stating that the line potentially is eligible for the National Register and requesting that a cultural assessment be conducted to evaluate the line for National Register eligibility. The SHPO also stated that the proposed salvage activities would not affect any archaeological

¹ The September 7 decision also imposed, under 49 U.S.C. § 10905, a 180-day public use condition, which is scheduled to expire on March 6, 2012.

resources listed in or eligible for listing in the National Register, as long as the salvage activities remained within the ROW and on previously disturbed land. A&F, in a letter to the SHPO on September 16, 2011, stated that salvage would occur within the existing ROW and on previously disturbed land. A&F also stated that CSX Transportation, Inc., retained ownership of all the line's bridges and structures, while A&F only acquired title to the tracks, ties, switches, signals, and other track materials when A&F acquired the line, and A&F therefore does not have the legal authority to remove any permanent structures on or along the ROW. A&F therefore requested the SHPO to inform the Board that it either considers the Section 106 process complete or that it does not object to the salvage of the tracks and ties pending completion of the Section 106 process.

On September 19, 2011, A&F requested that the September 7 decision be modified to remove the part of the decision preventing salvage of the ties and rails.² In support of its request, A&F submitted a letter from the SHPO, dated September 19, 2011, concurring that salvage of the tracks and ties may proceed, and noting that the SHPO is awaiting the evaluation of the historic aspect of the line.

Based on the information provided, OEA recommends that the Section 106 condition be modified to allow salvage of the tracks and ties. Thus, OEA recommends that the Board modify the Section 106 historic preservation condition as follows: A&F shall ensure that it retains its interest in and takes no steps to alter the historic integrity of all sites, buildings, and structures within the project ROW (excluding the tracks and ties) until the Section 106 process of the NHPA has been completed. In addition, A&F shall (1) report back to OEA regarding any consultations with the SHPO, any other Section 106 consulting parties, and the public, and (2) refrain from filing its consummation notice until the Section 106 process has been completed and the Board has removed this condition.

On September 21, 2011, OEA received a late-filed comment from the National Geodetic Survey (NGS) indicating that it has identified 23 geodetic station markers in the area of the proposed abandonment and has requested notification at least 90 days in advance of any salvage activities that could disturb or destroy these markers so that plans can be made for their relocation. Accordingly, OEA recommends that a condition be imposed requiring A&F to consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers. Based on OEA's recommendation, the recommended condition will be imposed.

² Where a historic condition is needed only for a portion of the line or for particular structures on the line, a railroad may request that the Board modify the condition to allow the railroad to salvage the rest of the line not affected by that condition. See Consummation of Rail Line Abans. That Are Subject To Historic Pres. & Other Env'tl. Conditions, EP 678 (STB served Apr. 23, 2008).

Accordingly, the proceeding will be reopened and the previously imposed Section 106 historic preservation condition will be modified as recommended by OEA, and the new condition recommended by OEA will be imposed.

As conditioned, this decision 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 notice served and published in the Federal Register on August 9, 2011, exempting the abandonment of the line described above, is subject to the condition that A&F shall consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers. In addition, the Section 106 historic preservation condition imposed in the September 7 decision is modified as follows: A&F shall (1) ensure that it retains its interest in and takes no steps to alter the historic integrity of all sites, buildings, and structures within the project ROW (excluding the tracks and ties) until the Section 106 process of the NHPA has been completed, (2) report back to OEA regarding any consultations with the SHPO, any other Section 106 consulting parties, and the public, and (3) refrain from filing its consummation notice 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, Rachel D. Campbell, Director, Office of Proceedings.