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SEA

SERVICE DATE – JUNE 21, 2005

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-70 (Sub-No. 5X)

Florida East Coast Railway, L.L.C. – Abandonment Exemption – in Brevard County, FL

BACKGROUND

In this proceeding, Florida East Coast Railway, L.L.C. (FEC) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a line of railroad in Brevard County, Florida. The “Titusville Branch” line extends approximately 9.8 miles from milepost TB 0.0 in Titusville, Florida to TB 9.8 in Aurantia, Florida. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way (ROW).

DESCRIPTION OF THE LINE

The subject line traverses commercial, industrial, and medium to rural residential land uses. The ROW width is generally 100 feet, but ranges from 30 to 200 feet. The surrounding topography is relatively flat, averaging between 20 to 25 feet above sea level. According to the applicant, the subject line was acquired by FEC over a 43 year period, from 1885 through 1928. The Titusville Branch was constructed in the 1920’s and has been used by FEC primarily to serve local shippers. FEC has certified that no traffic has moved on the Titusville Branch for over two years and that no operational changes are expected as a result of the abandonment. Titles to intermittent sections of the Titusville Branch are owned by adverse possession pursuant to Section 1722, General Statutes of Florida, 1906. Based on information in FEC’s possession, the Titusville Branch does not contain any federally-granted ROW. The applicant believes that, although the Titusville Branch would not be suitable for public uses such as roads or highways, it may be suitable for other public purposes, such as interim trail use. The Florida Department of Environmental Protection commented that they are currently in negotiations with FEC to purchase the subject corridor for a Rails-to-Trails project per the proposed East Central Florida Rail Trails for Brevard and Volusia Counties. According to FEC, there are no hazardous waste sites or sites where known hazardous materials spills have occurred along the ROW. There are no buildings or other structures along the line, other than a small trestle bridge over a culvert on the Little River Branch approximately nine (9) feet in length that was built in the 1950’s.

ENVIRONMENTAL REVIEW

FEC 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-abandonment activities, including salvage and disposition of the right-of-way. FEC served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (the Board) environmental rules [49 CFR 1105.7(b)]. The Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

As stated above, no traffic has moved on the line segment within the last two years. 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.

FEC consulted with the Brevard County Planning and Zoning Office regarding any adverse effects on local land use plans. To date, the Planning and Zoning Office has not advised the SEA of any adverse impacts on local land use plans.

Adverse impacts on public health and safety are not anticipated because there would be no diversion of rail traffic to other modes. Short-term impacts on noise levels associated with any salvaging activities would not be significant.

The U.S. Department of Agriculture, Natural Resources Conservation Service, has determined that the proposed abandonment will not impact any prime agricultural land.

The Florida Department of Environmental Protection, Water Resource Management and Florida Coastal Management Program, has determined that the proposed abandonment would have no effect on coastal zone management.

FEC consulted the U.S. Fish and Wildlife Service and the Florida Fish and Wildlife Service. To date, the Florida Fish and Wildlife Service has not advised SEA of any adverse impacts, but the U.S. Fish and Wildlife Service has determined that the proposed abandonment is not likely to have an adverse impact on any federally-listed species, or adversely modify any areas designated as critical habitats.

The National Park Service, Southeast Region; the U.S. Fish and Wildlife Service; the Florida Fish and Wildlife Service; and the Florida Department of Environmental Protection, Water Resource Management had not provided comments at the time this Environmental Assessment (EA) was prepared. However, impacts to the wildlife sanctuaries, refuges, national or state parks or forests, and water quality are not anticipated because the roadbed will be left intact, soil will not be disturbed, and the salvaged material will not be placed in any waterways, wetlands, or 100-year floodplain.

The U.S. Army Corps of Engineers commented that the proposed action does not require permits under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

The U.S. Environmental Protection Agency and the Florida Department of Environmental Protection, Water Resource Management have not provided comments on impacts to Section 402 of the Clean Water Act. FEC will provide comments as the requested documents become available.

The National Geodetic Survey (NGS) has identified nine (9) geodetic markers that may be affected by the proposed abandonment. If there are planned activities which will disturb or destroy these markers, the applicant is required to notify the NGS 90 days prior to the onset of salvage activities in order to plan for their possible relocation.

HISTORIC REVIEW

FEC submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Florida Division of Historical Resources (SHPO), pursuant to 49 CFR 1105.8(c). There are no historic properties on the line, other than a small trestle bridge over a culvert on the Little River Branch approximately nine (9) feet in length that was built in the 1950's. It was originally constructed with wood stringers and 90 pound rail, but is now made of steel stringers with 112 pound rail. Based on FEC's historic report, SEA does not believe there are any historic properties involved in the proposed abandonment that meet the criteria for listing on the National Register of Historic Places (National Register). The SHPO has submitted comments stating that the proposed abandonment will have no effect on historic properties. However, the SHPO requested that FEC document the rail line and bridge on the Florida Master Site File Structure Form and FEC has agreed to do so. We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the section 106 process of the National Historic Preservation Act at 36 CFR 800.4(d)(1) and 36 CFR 800.8, we have determined that the proposed abandonment will have no effect on historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of FEC's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

CONDITIONS

We recommend that the following condition be placed on any decision granting abandonment authority:

1. The National Geodetic Survey has identified nine (9) geodetic markers that may be affected by the proposed abandonment. Therefore, the FEC shall notify the National Geodetic Survey 90 days prior to the onset of salvage activities in order to plan for their possible relocation by the National Geodetic Survey.

CONCLUSIONS

Based on the information provided from all sources to date, SEA 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 CFR 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 the petition for 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 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592,

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 Diana Wood, 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-70 (Sub-No. 5X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 565-1552, fax at (202) 565-9000, or e-mail at woodd@stb.dot.gov

Date made available to the public: June 21, 2005.

Comment due date: July 6, 2005

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment