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SERVICE DATE – SEPTEMBER 6, 2016

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 386X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT
EXEMPTION—IN CHARLESTON, S.C.

Decided: September 2, 2016

Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 1.97 miles of rail line between milepost SC 0.33 and milepost SC 2.3 in Charleston, S.C. (the Line). Notice of the exemption was served and published in the Federal Register on August 9, 2016 (81 Fed. Reg. 52,733). The exemption is scheduled to become effective on September 8, 2016.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on August 12, 2016, recommending that three environmental conditions be imposed on any decision granting abandonment authority. In the EA, OEA stated that the Line appears to be within a designated Coastal Zone Management Area, and may be subject to the consistency certification requirements of the federal Coastal Zone Management Act of 1986 (16 U.S.C. § 1451 et seq.). Because this program is administered by the South Carolina Department of Health and Environmental Control, Bureau of Water Pollution Control, Office of Ocean and Coastal Resource Management (DHEC-BWPC-OCCRM), OEA recommended a condition that NSR be required to, prior to beginning any salvage activities, consult with the South Carolina DHEC-BWPC-OCCRM to determine whether state coastal management consistency certification is required, pursuant to the Coastal Zone Management Act of 1986 (16 U.S.C. § 1451 et seq.). OEA also recommended that NSR not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to OEA and the Board has removed this condition.

OEA also stated that the National Geodetic Survey (NGS) had commented that there are two geodetic station markers that may be affected by the proposed abandonment. Therefore, OEA recommended a condition that NSR be required to consult with and notify NGS at least 90 days prior to beginning salvage activities that would disturb or destroy any geodetic station markers.

In the EA, OEA noted that NSR served a historic report on the South Carolina Department of Archives and History (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). The SHPO submitted comments indicating that the proposed abandonment has the potential to adversely affect the William Aiken House and Associated

Railroad Structures, a property listed in the National Register of Historic Places (National Register) and a designated National Historic Landmark. The SHPO also commented that the submitted information did not describe the undertaking or make an assessment of effect as it pertains to the historic property, nor did it document the Area of Potential Effect existing conditions, especially within and adjacent to the historic property's boundary. To determine more conclusively if an adverse effect to the historic property would occur, the SHPO has requested a detailed description of the undertaking, a clear delineation of the Area of Potential Effect, and a discussion of existing conditions within the surrounding area. Therefore, OEA recommended a condition that NSR be required 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 (the Area of Potential Effect) that are eligible for listing or listed in the National Register until the Section 106 process of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108, has been completed. OEA also recommended that NSR report back to OEA regarding any consultations with the SHPO and the public, and that NSR 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.

OEA issued its final EA on August 30, 2016, noting that no comments to the EA were received by the August 29, 2016 due date and reiterating that the three previously recommended conditions be imposed. Accordingly, the three conditions recommended by OEA in the EA and final EA will be imposed.

Based on OEA's recommendation, the proposed abandonment, if implemented as conditioned, 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, 2016, exempting the abandonment of the Line described above, is subject to the conditions that NSR shall: (1)(a) prior to beginning any salvage activities, consult with the South Carolina DHEC-BWPC-OCCRM to determine whether state coastal management consistency certification is required, pursuant to the Coastal Zone Management Act of 1986 (16 U.S.C. § 1451 et seq.), and (b) not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to OEA and the Board has removed this condition; (2) consult with and notify NGS at least 90 days prior to beginning salvage activities that would disturb or destroy any geodetic station markers; and (3)(a) 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 until the Section 106 process of the NHPA has been completed, (b) report back to OEA regarding any consultations with the SHPO and the public, and (c) 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.

3. This decision is effective on its date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.