

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 1095 (Sub-No. 1)

**Paulsboro Refining Company LLC – Adverse Abandonment –
In Gloucester County, N.J.**

BACKGROUND

In this proceeding, the Paulsboro Refining Company, LLC (PRC) filed an application under 49 U.S.C. § 10903 seeking authority to adversely abandon a portion of rail line in Paulsboro, Gloucester County, New Jersey. The proposed adverse abandonment comprises approximately 5.8 miles of rail line within PRC's 970-acre Paulsboro refinery and extends northward from a connection 950 feet to the west of milepost 14 on the Paulsboro Industrial Track of Consolidated Rail Corporation (Conrail) (together, the Line). PRC has filed its application pursuant to the requirements of 49 C.F.R. Part 1152 and a Surface Transportation Board (Board) decision served on July 26, 2012.¹ The rail line is currently owned by PRC and operated by SMS Rail Service, Inc. (SMS).

PRC states that SMS began providing service over the Line in September 2000 when the railroad entered into an operating agreement with the facility's prior owner, Valero Refining Company. Under the agreement, SMS provided common carrier service by interchanging traffic with Norfolk Southern Railway Company (NS), CSX Transportation, Inc. (CSXT), or their agent, Consolidated Rail Corporation.² SMS also provided plant switching services. PRC states that it has since terminated the operating agreement in accordance with its terms and no longer needs or seeks the common carrier services provided by SMS. PRC also wishes to perform its own plant switching operations through the use of a non-carrier switching contractor. PRC seeks approval of the proposed adverse abandonment because it states that SMS has refused to seek abandonment authority on its own. If adverse abandonment authority is granted, PRC would be able to begin the process of evicting SMS in accordance with New Jersey state law and convert the rail line back to private use.

¹ The decision permitted PRC to bypass some of the procedures normally required in a typical abandonment proceeding that would be difficult or impossible for a non-operator of a rail line to comply with, such as revenue and cost data, but retained other requirements that are necessary to allow the Board to act on the application.

² Prior to September 2000, the Line operated as private plant tracks.

PRC's application states that the Line previously served four shippers in addition to PRC, but now serves only PRC and, to a minor extent, ExxonMobil. PRC notes that there would be no material changes in service and no need to salvage the Line if the proposed adverse abandonment is authorized. Common carrier service to and from the refinery would continue to be provided by NS and CSXT, or their agent, Conrail, in the same manner that service was provided before SMS began providing common carrier service at the refinery. The Line traverses U.S. postal zip code 08066. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA).

ENVIRONMENTAL REVIEW

PRC submitted an environmental report that concludes 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. PRC 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)].³ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

PRC states that if the proposed adverse abandonment is granted, there would be no changes in the level of service. Rather, the proposed adverse abandonment would allow for the Line to be converted from a "line of railroad" back to a private rail line. As previously stated, the Line would continue to serve PRC and to a minor extent, ExxonMobil. Accordingly, the proposed adverse 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.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or if necessary, via construction of new access points to the right-of-way. If adverse abandonment authority is granted, PRC states that there would be no salvage. The Line would continue to operate and accordingly, there would be no impacts relating to the salvage process, including noise and air emissions.

PRC served notice of the proposed adverse abandonment on the New Jersey Department of Environmental Protection, Division of Land Use Regulation, Coastal Regulation (NJDEP). NJDEP initially requested additional information and confirmation that no land disturbance

³ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 1095 (Sub-No. 1).

activities would occur as a result of the proposed adverse abandonment. After receiving the requested information, NJDEP commented that it has no further comments or concerns regarding the proposed action.

PRC served notice of the proposed adverse abandonment on the U.S. Environmental Protection Agency (EPA), Region 2. In a telephone conversation with PRC, EPA indicated that it has no objections because there would be no change in railroad operations; no salvage or other land disturbance activities would occur as a result of the proposed action.

PRC served notice of the proposed adverse abandonment on the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS). NRCS commented that the area of the proposed adverse abandonment is industrial and therefore, does not contain any prime agricultural lands, or unique farmland soils.

PRC served notice of the proposed adverse abandonment on the National Oceanic and Atmospheric Administration, National Geodetic Survey (NGS). NGS initially commented that no geodetic station markers were located in the area of the proposed adverse abandonment. However, in a follow-up email, NGS commented that approximately six geodetic markers may be located within the area of the proposed adverse abandonment. NGS has determined that there would be no impact to the markers because the Line is to remain operational; no salvage or other land disturbance activity is contemplated, and no further consultation is necessary.

PRC served notice of the proposed adverse abandonment on the U.S. Fish and Wildlife Service (USFWS). USFWS commented that the Bog turtle (*Clemmys muhlenbergii*), a federally-listed threatened species, or its habitat, may occur in the project area. However based on its review, USFWS has determined that the proposed action would not likely have an adverse effect on the federally listed species or its habitat.

Based on all information available to date, OEA does not believe that the proposed adverse abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this EA to the following agencies for review and comment: the U.S. Army Corps of Engineers; the National Park Service; the National Geodetic Survey; the Delaware River Basin Commission; and Gloucester County.

HISTORIC REVIEW

PRC served the Historic Report on the New Jersey Department of Environmental Protection Historic Preservation Office (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c) as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)]. 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 Effects, or APE) of the proposed adverse abandonment. The SHPO requested to be immediately contacted if any additional resources, such as archaeological remains, are discovered during salvage activities. However, given that the proposed adverse abandonment would not result in any salvage or other

land disturbance activities that could potentially uncover archaeological or other historical resources, OEA has determined that no further consultation with the SHPO is needed.

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, OEA has determined that the proposed adverse 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 PRC'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.⁴ The database indicated that there are no federally-recognized tribes with ancestral connections in the area of the proposed abandonment.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed and if the recommended mitigation is 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.

TRAILS USE

A request for a certificate of interim trail use (CITU) is due to the Board, with a copy to the railroad/applicant, within 10 days of the notice's publication 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) and should address whether the issuance of a certificate of interim trail use in this case would be consistent with the grant of an adverse abandonment application.

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at (202) 245-0238, or mail inquiries to Surface

⁴ Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited February 4, 2014).

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 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 1095 (Sub-No. 1) 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) 245-0302, fax at (202) 245-0454, or e-mail at woodd@stb.dot.gov.

Date made available to the public: February 12, 2014.

Comment due date: March 14, 2014.

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

Attachment