

34348

SERVICE DATE - FEBRUARY 20, 2004

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

AB 290 (Sub No. 247X)

**NORFOLK SOUTHERN RAILWAY COMPANY – ABANDONMENT EXEMPTION –
IN MCKLENBURG COUNTY, NC**

BACKGROUND

In this proceeding, the Norfolk Southern Railway Company (NS) has filed a petition under 49 U.S.C. 10502 seeking exemption from the requirements of 49 U.S.C. 10903 to abandon a 1.95-mile line of railroad known as the old R-line. The rail line extends from milepost old R-3.00 to milepost old R-4.95, in Charlotte, Mecklenburg County, NC. The line traverses United States Postal Service Zip Codes 28210 and 28217 and includes no stations. A map depicting the rail line in relationship to the area served is appended to the report. If the exemption becomes effective, the railroad will be able to abandon service on the line.

ENVIRONMENTAL REVIEW

Agency Consultation

The railroad has submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment. The railroad has served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Board's environmental rules at 49 CFR 1105.7(b). We have investigated the record in this proceeding. Also, we have contacted appropriate agencies and individuals to verify the railroad's report and to obtain additional information and comments regarding the potential environmental effects of the proposed abandonment. Contacts have included Department of Natural Resources, State Historic Preservation Officer, National Park Service, U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Department of Agriculture, Coastal Zone Management, Department of Transportation, and National Geodetic Survey.

Analysis

NS states there has been no traffic on the line between milepost old R-3.00 and old R-3.80 for many years. NS states it will reclassify the track between mile old R-3.80 and old R-4.95 as industrial lead track to continue to serve the C& T Refinery, the only active rail customer on the line.

The entire line is proposed for abandonment to facilitate the sale to and use of the right-of-way by the City of Charlotte (City) for public purposes. NS and the City closed the sale of the right-of-way to the City on December 11, 2003, subject to the NS continuing easement for the track to be reclassified as industrial track and an agreement preserving NS's right to serve C&T

Refinery and any potential new customer that could locate along the reclassified track. The City plans to construct a light rail passenger system over the right-of-way and other contiguous property. The City expects to relocate the reclassified track serving C&T Refinery within or adjacent to the right-of-way to facilitate public use of the property. As part of the transaction with the City, NS is retaining an easement for the reclassified track. NS has entered into an operating agreement with the City that permits NS to continue to serve C&T Refinery over the reclassified track. There is no overhead traffic on the line that would require re-routing if the line is abandoned. No traffic is expected to be diverted to motor carriers in connection with the proposed abandonment.

The land use along the rail line proposed for abandonment is 80% industrial and 20% unimproved. There would be no change regarding existing land use for freight operations because of the reclassification of the track between milepost old R-3.80 and milepost old R-4.95. The abandonment of this rail segment would make available a corridor for public transit development on part of the right-of-way, which is consistent with the proposed land use plans of the City. No effect on any prime agricultural land is anticipated as a result of the abandonment. No adverse impacts on air quality or noise levels are expected.

The U.S. Fish and Wildlife Service (FWS) advises that one animal (Bald Eagle) and four plant (Georgia Aster, Schweinitz's Sunflower, Smooth Coneflower, and Michaux Sumac) species federally listed as threatened are known to exist in Mecklenbur County. Since salvage operations would be minimal and would be handled generally within the right-of-way, it is unlikely that any species would be adversely impacted. Nevertheless, we recommend that NS consult further with FWS to determine if any of these species are known to occur within proximity of the right-of-way and if they could be adversely impacted by salvage activities. Any impacts on water quality would be negligible.

Historic

The applicant submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)]. The applicant served the report on the Kansas State Historic Preservation Officer (SHPO) pursuant to 49 CFR 1105.8 (c). 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 by the proposed abandonment. 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 not affect 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 the applicant's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

As a result of its review, the National Geodetic Survey (NGS) has identified two geodetic station markers (FA 2542 and FA 4474) that may be affected by the proposed abandonment. We recommend if there are any planned activities which would disturb or destroy these markers, NGS be given 90 days notification in advance of such activities in order to plan for their relocation.

CONDITIONS

The following conditions are recommended on any certificate granting abandonment authority.

- The National Geodetic Survey (NGS) has identified two geodetic station markers (FA 2542 and FA 4474) that may be affected by the proposed abandonment. If there are any planned activities which would disturb or destroy these markers, NGS should be given 90 days notification in advance of such activities in order to plan for their relocation.
- NS shall consult further with FWS to determine if the Bald Eagle, Georgia Aster, Schweinitz's Sunflower, Smooth Coneflower, and Michaux Sumac are known to occur within proximity of the right-of-way and if the species would be adversely affected by proposed salvage activities.

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, abandon 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 abandon would include denial (and, therefore, no change in operations) or continued operation by another operator. In this case, 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 responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

ENVIRONMENTAL COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Phillis Johnson-Ball who prepared this environmental assessment. **Please refer to Docket No. AB-290 (Sub-No. 247X) in all correspondence addressed to the Commission.** If you have questions regarding this environmental assessment, you should contact Phillis Johnson-Ball at (202) 565-1530.

Date made available to the public: February 20, 2004

Comment due date: March 22, 2004

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

Vernon A. Williams
Secretary

Attachment

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