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SERVICE DATE - DECEMBER 28, 2001

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

DOCKET NO. AB-290 (Sub-No. 226X)

**Norfolk Southern Railway Company - Abandonment Exemption - in Mingo County, WV
and Pike County, KY**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) has 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 the line extending between Milepost CR-0.0 at Cedar, Mingo County, West Virginia and Milepost CR-2.28 at Majestic, Pike County, Kentucky, a distance of approximately 2.28 miles. 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 to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to NSR, this line, called the Cedar-Majestic line, was originally known as the Poplar Creek Branch. The Poplar Creek Branch was built in 1890 by the Norfolk and Western Railroad Company to serve Majestic Collieries Company's mining operations. No traffic has originated, terminated or moved overhead on this line segment for at least two years. No future traffic is anticipated. The line does not contain Federally granted rights-of-way (ROW). NSR is unaware of any potential public purposes to which the ROW may be suited. NSR does not have fee title to all the ROW underlying the line proposed for abandonment; therefore, NSR does not have a contiguous corridor available for future public use.

The land use along the line proposed for abandonment of service is approximately 50% residential and 50% undeveloped. Where NSR owns the ROW it will be allowed to naturally revegetate. Where NSR does not own the ROW, the owner and local zoning and development ordinances will control future land use.

The line proposed for abandonment crosses the Tug Fork River as well as two unnamed tributaries of Poplar Creek. The line passes through 100-year flood plains and wetlands associated with these waterways. NSR states that it does not intend to alter the contour of the roadbed during salvage, and that it has no plans to undertake in-stream work, with salvage activities to be performed in the right-of-way whenever possible.

ENVIRONMENTAL REVIEW

NSR 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. NSR served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. We have reviewed and investigated the record in this proceeding.

The States of Kentucky and West Virginia both have regulations regarding the emission of fugitive dust to ambient air which could be applicable at this site. These regulations are published in 401 KAR 63:010 in the Kentucky Code of Regulations and 45 CSR 17 in the West Virginia Code of State Regulation. Prior to commencement of any salvage activities on this project, NSR will be required to contact the West Virginia Department of Environmental Protection and the Kentucky Department for Environmental Protection.

The West Virginia Division of Natural Resources, Wildlife Resources Section, anticipates no long term adverse environmental affects from the project. To protect water quality, they have requested that appropriate sediment and erosion control measures be implemented during the rail and tie removal phases of the project. Accordingly, we will recommend a consultation condition requiring that NSR contact the West Virginia Division of Natural Resources prior to commencement of any salvage activities on this project.

The West Virginia Division of Culture and History (WV SHPO) has completed their assessment of the potential impact of this project on historic resources, and has concluded that this project will not effect historic properties.

The Kentucky Heritage Council (KY SHPO) has advised us that bridges on the line to be abandoned are potentially eligible for listing in the National Register of Historic Places. They have requested that a survey be conducted by a qualified architectural historian to evaluate the historical significance of the bridges on the line.

CONDITIONS

We recommend that the following three environmental conditions be placed on any decision granting abandonment authority:

1. To address the concerns raised by the States of Kentucky and West Virginia, NSR shall, prior to commencement of any salvage activities on this project, contact the Kentucky Department for Environmental Protection and the West Virginia Department of Environmental Protection concerning possible impacts from fugitive dust emissions.

2. Prior to any salvage activities, NSR shall consult with the West Virginia Division of Natural Resources, Wildlife Resources Section to evaluate potential impacts on water quality in the region.
3. The Kentucky Heritage Council has indicated that there appears to be bridges on the line to be abandoned which may have historical significance. Pending resolution of this issue, NSR shall retain its interest in and take no steps to alter the historic integrity of all sites or structures on the right-of-way until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, 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

If abandonment and salvage of the rail line does take place, 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 Surface Transportation 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 Surface Transportation Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. However, the Board will accept late-filed requests as long as it retains jurisdiction to do so. 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 the 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** to Vernon A. Williams, Office of the Secretary, Washington, DC 20423, to the attention of Kenneth Blodgett, who prepared this environmental assessment. **Please refer to Docket No. AB-290 (Sub No. 226X) in all correspondence addressed to the Board. Questions regarding this environmental assessment should be referred to Kenneth Blodgett at (202) 565-1554.**

Recent events involving a principal postal facility within Washington, D.C. may affect for a period of time the receipt of materials mailed to the Board, as well as customer receipt of reply mail sent from the Board. Until the timely delivery of mail has been reestablished, the Section of Environmental Analysis (SEA) requests that individuals filing comments regarding this or other environmental assessments take the following additional steps to ensure receipt of their correspondence during the comment period:

1. Telephone or e-mail the environmental contact indicated above prior to the close of the comment period and inform them that you have mailed a comment.
2. If the comment has not been received, the environmental contact will discuss alternative modes of delivery.
3. Retain a copy of your comment for your records should alternative modes of delivery be necessary.

SEA is committed to carrying out its duties to the public and regrets any inconvenience these new procedures may cause.

Date made available to the public: December 28, 2001.

Comment due date: **January 11, 2002 (15 days).**

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

Vernon A. Williams
Secretary

Attachment

MAP TO BE SCANNED