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SERVICE DATE – JANURARY 28, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-1019X

TRANSIT AMERICA, LLC—ABANDONMENT EXEMPTION—  
IN BUCHANAN COUNTY, MO

Decided: January 27, 2009

By decision served on December 1, 2008 (December 1 decision), the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by Transit America, LLC (TA) of approximately 2 miles of a rail line known as the Missouri Branch Line, approximately between milepost 200.4 and milepost 198.4, in St. Joseph, Buchanan County, MO, subject to two environmental conditions and standard employee protective conditions.

The environmental conditions required that TA: (1) prior to conducting any salvage activities, consult with the U.S. Army Corps of Engineers (Corps) for potential impacts to waters of the United States, including wetlands, and comply with the reasonable requirements of the Corps; and (2) 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 (Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. TA was also required to report to the Board's Section of Environmental Analysis (SEA) regarding any consultations with the Missouri Department of Natural Resources, State Historic Preservation Office (SHPO) and the public. TA was also directed not to file its consummation notice or initiate any salvage activities (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed the condition.

As to condition (2), the historic preservation condition, SEA notes that, by letter dated November 21, 2008, the SHPO states that it has determined that there are no National Register listed or eligible properties affected by this undertaking. SEA states that, pursuant to the section 106 regulations of the NHPA at 36 CFR 800.5(b), and following consultation with the SHPO and the public, it has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. Therefore, SEA recommends that the section 106 historic preservation condition be removed. Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.

Condition (1), the salvage condition, remains in effect. As to this condition, SEA states that, in a letter dated December 22, 2008, rather than salvage the rail line, TA intends to transfer the trackage and right-of-way to its affiliate Herzog Contracting Corporation, which will operate

private, non-common carrier switching service on the line. SEA notes that the transfer of the rail line to a private carrier would not result in any salvage activities, and as such, no disturbance or discharge to waters of the United States, including wetlands. SEA adds, however, that TA has indicated that it will comply with this condition in the event its plans change and it decides to salvage the rail line proposed for abandonment. Therefore, according to SEA, this condition remains unchanged, but would apply only if the line were salvaged.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proceeding is reopened.
2. Upon reconsideration, the section 106 historic preservation condition imposed in the December 1 decision is removed.
3. This decision is effective on its date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary