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SERVICE DATE – NOVEMBER 26, 2013

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 335X)

THE ALABAMA GREAT SOUTHERN RAILROAD COMPANY—  
ABANDONMENT EXEMPTION—IN GADSDEN, ETOWAH COUNTY, ALA.

Docket No. AB 290 (Sub-No. 340X)

TENNESSEE, ALABAMA, AND GEORGIA RAILWAY COMPANY—  
ABANDONMENT EXEMPTION—IN GADSDEN, ETOWAH COUNTY, ALA.

Decided: November 26, 2013

The Alabama Great Southern Railroad Company (AGS) and Tennessee, Alabama, and Georgia Railway Company (TAG) (collectively, applicants)<sup>1</sup> jointly filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments for AGS and TAG to abandon service over approximately 4.25 miles of interconnected rail line in Gadsden, Etowah County, Ala. Specifically, AGS proposes to abandon 3.10 miles of rail line (the AGS Segment) between milepost 2.40 AG (near Cabot Ave.) and milepost 5.50 AG (near the intersection of River and Coosa Streets); and TAG proposes to abandon approximately 1.15 miles of rail line (the TAG Segment) between milepost TA 90.30 (located between the north end of Brookside Drive and Owls Hollow Road) and milepost TA 91.45 (at TAG Segment's connection with the AGS Segment west of N 5th Street) (the Line). Notice of the exemption was served and published in the Federal Register on March 5, 2013 (78 Fed. Reg. 14,414). The exemption was scheduled to become effective on April 4, 2013.

By decision served on April 3, 2013, the Board imposed trail use and public use conditions<sup>2</sup> on the applicants' abandonment exemption and imposed three environmental conditions recommended by the Board's Office of Environmental Analysis (OEA). The environmental conditions require applicants to: (1) prior to commencement of any salvage activities, consult with the Alabama Department of Environmental Management (ADEM) and the City of Gadsden, Ala. (the City) regarding their stormwater requirements and comply with their reasonable requirements; (2) (a) retain their interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the

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<sup>1</sup> Both applicants are wholly owned subsidiaries of the Norfolk Southern Railway Company.

<sup>2</sup> By a decision served on September 30, 2013, the trail use negotiating period was extended from October 1, 2013, to March 30, 2014. The public use condition expired on October 1, 2013, and may not be extended.

project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places (National Register) until completion of the Section 106 process of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, (b) report back to OEA regarding any consultations with the Alabama Historical Commission (State Historic Preservation Office or SHPO) and the public, and (c) not file a 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; and (3) consult with and notify the U.S. Department of Commerce, National Geodetic Survey (NGS) at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers.

In a Supplemental Final Environmental Assessment dated September 27, 2013, as amended November 4, 2013, OEA states that in a letter dated September 19, 2013, the SHPO submitted comments stating that the proposed abandonment should not affect any cultural resources that are listed or eligible for listing in the National Register within the project area. OEA states that, based on consultations with the SHPO and the applicants, it has determined that the proposed abandonment would not adversely affect historic properties listed in or eligible for inclusion in the National Register. Accordingly, OEA recommends that the Section 106 condition be removed (Condition 2).

OEA also states that in an e-mail dated June 6, 2013, NGS provided comments indicating that there are no geodetic station markers in the area of the proposed abandonment. Therefore, OEA recommends that the NGS condition regarding salvage be removed (Condition 3).

Further, OEA states that the SHPO requests in its comments that, should any artifacts or archaeological resources be discovered during salvage activities, work in the area of the discovery should cease and applicants should immediately consult with the SHPO. Accordingly, OEA recommends that the following additional condition be imposed: (a) in the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, the applicants shall immediately cease all work and notify OEA, the SHPO, and appropriate federally recognized tribes, pursuant to 36 C.F.R. § 800.13(b); and (b) OEA will then consult with the SHPO, the applicants, appropriate federally recognized tribes, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

Consistent with OEA's recommendations: (1) the previously imposed Section 106 historic preservation and the NGS conditions will be removed (Conditions 2 and 3); (2) the previously imposed environmental consultation condition regarding salvage activities and stormwater will remain unchanged (Condition 1); and (3) the recommended additional condition to address concerns regarding unanticipated discoveries during salvage activities will be imposed.

This decision, and 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 Section 106 historic preservation and the NSG conditions imposed in the April 3, 2013 decision and notice are removed.
3. In addition to Condition 1 regarding salvage activities and stormwater imposed in the April 3, 2013 decision and notice, the applicants' abandonment exemption is subject to the new environmental condition as follows: (2)(a) in the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, the applicants shall immediately cease all work and notify OEA, the SHPO, and appropriate federally recognized tribes, pursuant to 36 C.F.R. § 800.13(b); and (b) OEA will then consult with the SHPO, applicants, appropriate federally recognized tribes, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.
4. This decision is effective on its service date.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.