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SEA

SERVICE DATE – JULY 7, 2009

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**STB Docket No. AB-290 (Sub-No. 309X)**

**Norfolk Southern Railway Company – Abandonment Exemption –  
in Blount County, TN**

**BACKGROUND**

In this proceeding, Norfolk Southern Railway Company (NSR) 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 a line of railroad in Blount County, Tennessee. The rail line proposed for abandonment extends 0.66 miles from milepost 15.50-KA near East Broadway Ave/State Highway 33 to milepost 16.16-KA near South Washington Street (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). 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.

**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 report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)]. The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

***Diversion of Traffic***

According to NSR, no local or overhead traffic has moved over the Line for at least two years. NSR also states that if there were any overhead traffic, it could be rerouted over other lines. The proposed abandonment would, therefore, 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 re-grading of the right-of-way.

According to NSR, the right-of-way is 50 feet on each side of the track centerline. NSR states that the Line passes through rural areas. A review of satellite imagery and local photography indicates that the area through which the Line passes would more accurately be described as an area within the town limits of Maryville. The area comprises single family residences located on treed lots, light industrial/commercial businesses, and service oriented retail businesses. Additionally, the Line appears to pass adjacent to a former railroad passenger/freight station. There are two at-grade road crossings, one at Sevierville Road and one which NSR identifies as Evergreen Avenue that actually appears to be Everett Avenue. There is one bridge on the line where it passes over Broadway Avenue.

NSR states following abandonment, it would salvage the track and material and, to the extent of its title to the real estate, deal with the right-of-way as ordinary real estate no longer subject to a common carrier obligation. Removal of the rail line would eliminate the two road crossings.

On November 13<sup>th</sup>, 2008, NSR contacted various parties advising them that NSR was considering abandonment of the line and requesting their input regarding an abandonment action.

The U.S. Fish and Wildlife Service (USFWS) responded saying that no significant adverse impacts to wetlands or federally listed endangered or threatened species are anticipated from the abandonment action.

NSR contacted the U.S. Environmental Protection Agency (the EPA). The EPA responded stating that the State of Tennessee Department of Environment and Conservation (TDEC) has been authorized to implement the National Pollutant Discharge Elimination System (NPDES) permit program under Section 402 of the Clean Water Act (CWA). The EPA further stated that NSR should rely on the response they receive from the State for a final determination. TDEC has not responded to NSR's inquiries. NSR states that it does not intend to remove or alter the underlying roadbed, undertake in-stream work, dredge, or use any fill materials. As such, NSR believes there will be no significant effects to water quality or the need to acquire a Section 402 permit.

The U.S. Army Corps of Engineers (the Corps) submitted comments regarding Section 404 of the Clean Water Act. The Corps state that it does not appear that the abandonment would impact waters of the U.S., including wetland, with disposition of fill or dredged material. Therefore, a permit would not be required.

Pursuant to the requirements of 49 CFR §1105.7, NSR served copies of its Environmental Report on April 14<sup>th</sup>. NSR failed to include the Historic Report as part of its Environmental Report. As such, the agencies specified in 49 CFR §1105.7 did not receive both reports in NSR's April 14<sup>th</sup> mailing. SEA contacted NSR concerning the omission and on June 24<sup>th</sup>, NSR mailed a copy of the Historical Report to the agencies specified in 49 CFR §1105.7.

NSR received an e-mail response to its April 14<sup>th</sup> mailing from the National Geodetic Survey (NGS). NGS stated that two geodetic survey marks may be located in the area of the Line. NGS also stated that if the markers would be disturbed or destroyed by the abandonment, NSR shall consult with them at least 90 days prior to beginning salvage activities. Accordingly, SEA recommends a condition that requires NSR to consult with and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy the geodetic station markers.

NSR believes impacts to land use from the abandonment would be negligible. NSR requested an outline of future land use plans from the Mayor of Maryville and Blount County. To date, no response has been received. NSR states it is not aware of any restriction on the title to the right-of-way that would affect the transfer of title or use of property for other than rail purposes. However, NSR says it does not have fee title to the entire right-of-way underlying the line and a contiguous corridor would therefore not be available for public use.

NSR served the Environmental Report on the U.S. Department of Agriculture Natural Resource Conservation Service. To date no response has been received. Maps of the area of the abandonment indicate existing roads that would preclude any agriculture land being present and potentially impacted by the abandonment.

SEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts.

## **HISTORIC REVIEW**

Pursuant to the requirements of 49 CFR §1105.8(c), NSR served a copy of its Historic Report on The Tennessee Historical Commission (SHPO) on April 17<sup>th</sup>. The SHPO responded stating that it determined that no National Register of Historic Places listed properties, or properties eligible for listing, would be affected by the abandonment. NSR did not send the SHPO a copy of the Environmental Report in its April 17<sup>th</sup> mailing. SEA contacted NSR concerning the omission and on June 24<sup>th</sup>, NSR mailed a copy of the Environmental Report to the SHPO.

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 800.5(c) and 36 CFR 800.8, we have determined that the proposed abandonment will not adversely 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 railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

SEA conducted a search of the Tribal Directory Assessment Tool at <http://www.hud.gov/offices/cpd/environment/tribal/index.cfm> to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that the following Federally recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment: the Cherokee Nation, the Eastern Band of Cherokee Indians, the Eastern Shawnee Tribe of Oklahoma, the Shawnee Tribe, the Thlopthlocco Tribal Town, and the United Keetoowah Band of Cherokee Indians. Accordingly, SEA is sending a copy of this EA to those tribes for review and comment.

## **CONDITIONS**

We recommend that the following condition/s be imposed on any decision granting abandonment authority:

1. The Norfolk Southern Railway Company shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers.

## **CONCLUSIONS**

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

## **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 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 Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface 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 Alan Cassiday, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB-290 (Sub-No. 309X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Alan Cassiday, the environmental contact for this case, by phone at (202) 245-0308, fax at (202) 245-0454, or e-mail at [alan.cassiday@stb.dot.gov](mailto:alan.cassiday@stb.dot.gov).

Date made available to the public: July 7, 2009.

**Comment due date: July 21, 2009.**

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

Anne K. Quinlan  
Acting Secretary

Attachment