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OEA

SERVICE DATE – FEBRUARY 4, 2011

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB 384 (Sub-No. 3X)**

**Delta Southern Railroad, Inc. - Abandonment Exemption –  
in Desha and Chicot Counties, Ark.**

**BACKGROUND**

In this proceeding, Delta Southern Railroad, Inc. (DSR), filed a petition for exemption under 49 C.F.R. § 10502 for exemption from the provisions of 49 U.S.C. § 10903 to abandon a 24.1 mile line of railroad between milepost 408.9, near McGehee and milepost 433.0, near Lake Village, in Desha and Chicot Counties, AR (Line). The Line extends between a point of connection with the Union Pacific Railroad Company (UP) near McGehee and a point of connection with Southeast Arkansas Economic Development District (SAEDD) near Lake Village. SAEDD acquired a connecting 21.8 mile rail segment between Lake Village and the Arkansas-Louisiana State Line from DSR in 2005 following a class exemption for abandonment.

The Line traverses U.S. Postal Zip Codes 71638, 71653, and 71654 and does not contain any federally granted rights-of-way. DSR states that the Line would be appropriate for alternative public use as a recreational trail. A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA).

**DESCRIPTION OF THE RAIL LINE**

According to DSR, there is a single shipper on the Line, Epstein Gin (Epstein), who is a shipper of cottonseeds. Because of poor track conditions, the Line was embargoed on November 2, 2010.<sup>1</sup> Due to the Lines lone shipper and the Line's poor condition, DSR believes that there is no reasonable alternative to abandonment. If the Board should approve this proposed abandonment, DSR states that it would salvage the track materials and that the salvaged components would be sold for reuse, rerolling<sup>2</sup> or as scrap.

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<sup>1</sup> A representative of McHann Railroad Services, Inc. conducted an inspection of the Line on November 29, 2010 and determined that the entire track and all bridges should be removed and reconstructed.

<sup>2</sup> "Rerolling" is a process by which scrap metal materials are melted and reformed into new metal products.

## **ENVIRONMENTAL REVIEW**

DSR 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. DSR 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 C.F.R. § 1105.7(b)).<sup>3</sup> The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

### ***Diversion of Traffic***

As stated above, DSR reports that the Line was embargoed on November 2, 2010, due to unsafe track conditions. According to DSR, the Line does not comply with minimum Federal Railroad Administration Class I standards and the 8 bridges on the Line require extensive repair. DSR states that Epstein has been the Line's sole shipper for the past 10 years. DSR notes that Epstein is located in Lake Village, near milepost 431.7, approximately 2.7 miles north of the southern terminus of the proposed abandonment.

DSR states that Epstein's rail traffic has declined dramatically. According to DSR, Epstein shipped 451 carloads in 2008, 81 carloads in 2009 and 20 carloads during the 10 months of 2010. Epstein states that it would have shipped an additional 40 carloads had the Line not been embargoed. DSR notes that it is unlikely that other shippers would relocate to the Line—no shippers have done so in the past 10 years.

DSR believes that any rail-to-truck diversions would result in minimal impacts to regional or local transportation systems and patterns because Epstein only moved 81 carloads in 2009. Furthermore, DSR states that there are facilities located in both Jerome, AR (25 miles from Lake Village) and Portland, AR (22 miles from Lake Village) designed for truck-to-rail transloading of cottonseeds. DSR states that both Jerome and Portland are accessed via U.S. Highway 82 and Arkansas Highway 165 and that both are also rail served by UP's main line route from Little Rock, AR, and New Orleans, LA.

DSR notes that the abandonment, if approved, would result in a minor change in overall energy efficiency because 81 carloads per year transported by rail would be transported by less efficient transportation modes (rail-to-truck diversions). OEA calculates that, based on a conversion factor of 4 trucks needed to move the same goods as 1 rail car, the 81 carloads moved

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<sup>3</sup> The Environmental and Historic Reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB 384 (Sub-No. 3X).

by DSR in 2009 would result in 324 additional trucks or 648 total truck movements each year. This would be fewer than 3 truck movements per day, assuming a five-day per week work schedule. This *de minimus* total would result in minimal adverse impacts.

DSR concludes in its environmental report that there is no reasonable alternative to abandonment. DSR states that it is seeking abandonment approval for the following reasons: 1) operation of the Line is unprofitable; 2) there is no reasonable prospect for profitable operations; 3) the Line requires substantial rehabilitation; and 4) Epstein has feasible transportation alternatives.

### ***Salvage Activities***

If the Board approves the proposed abandonment, DSR would salvage the track materials and sell the salvaged components for reuse, rerolling or as scrap. If approved, DSR states that salvage would occur as follows:

Upon receipt of abandonment authority, DSR would remove track and track material by accessing the rail right-of-way for access, in conjunction with existing public and private at-grade crossings. DSR intends to build no new access roads as part of its salvage activities on the Line. DSR would not disturb any of the underlying roadbed or perform any activities that would cause sedimentation or erosion of the soil, and does not anticipate any dredging or use of fill in the removal of the track material. The crossties and/or other debris would be transported from the Line and would not be placed or left in streams or wetlands or along the banks of such waterways. Moreover, DSR would implement appropriate measures to prevent or control spills from fuels, lubricants or any other pollutant materials from entering any waterways.

According to DSR, if the Board were to approve this proposed abandonment, public health and safety would be enhanced by the permanent closure of public and private at-grade crossings.

### ***Comments Received from Agencies***

In a letter dated December 15, 2010, the Arkansas Natural Resources Commission indicates that it supports the proposed abandonment. A number of agencies responded that they had no comment on the proposed abandonment. These agencies include the Arkansas Forestry Commission, the Arkansas Geological Survey (which also supports the proposed abandonment), the Arkansas Game and Fish Commission, the Arkansas Highway and Transportation Department, and the Arkansas Economic Development Commission.

According to DSR, the proposed abandonment is unlikely to adversely affect endangered or threatened species or areas designated as critical habitat. Furthermore, abandonment would not affect wildlife sanctuaries or refuges, National or state parks or forests.

In a letter dated December 27, 2010, the U.S. Fish and Wildlife Service (USFWS) states that the federally endangered Interior Least Tern (*Sterna antillarum athalassos*) is known to occur in both Desha and Chicot Counties, AR, where it nests on sand and gravel islands. The species breeds between May 15<sup>th</sup> and August 1<sup>st</sup>. The USFWS recommends that if observations reveal Interior Least Tern breeding activity within one-half mile of the proposed activity, no action should proceed prior to consultation with the USFWS.

Accordingly, OEA will recommend a condition requiring that prior to commencement of any salvage activities, DSR shall consult with Ms. Lindsey Lewis, USFWS (501.513.4489) or the Arkansas Ecological Services Staff (501) 513.4487) regarding potential impacts from salvaging activities to the breeding activities of the federally listed endangered Interior Least Tern (*Sterna antillarum athalassos*) that may occur near the Line. DSR shall report the results of these consultations in writing to the Board's Office of Environmental Analysis prior to the onset of salvage operations.

According to DSR, it has no records that indicate any known hazardous material spills or hazardous waste sites that may have occurred or are located along the Line.

DSR states that, if approved, it believes that the abandonment would be consistent with all water quality standards and that no permits under Sections 402 or 404 of the Clean Water Act would be required. Furthermore, DSR notes that the abandonment would not affect any designated wetlands or 100-year floodplains.

OEA 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, OEA does not believe that should salvage occur that such activities would cause significant environmental impacts. OEA is providing a copy of this EA to the National Geodetic Survey, USFWS, and the Corps.

## **HISTORIC REVIEW**

In its Historic Report, DSR states that right-of-way is approximately 100 feet wide and traverses through a rural area. According to DSR, there are 8 bridges on the Line all of which are thought to be 50 years old or older.<sup>4</sup> The bridges are located at the following mileposts:

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<sup>4</sup> On January 25, 2011, OEA, via telephone, confirmed approximate age of the bridge structures with DSR's attorney.

- Milepost 413.8 – 14 feet long.
- Milepost 420.6 – 43 feet long.
- Milepost 421.9 – 60 feet long.
- Milepost 425.6 – 197 feet long.
- Milepost 426.4 – 141 feet long.
- Milepost 429.0 – 141 feet long.
- Milepost 429.3 – 28 feet long.
- Milepost 429.6 – 71 feet long.

DSR concludes that it does not believe that the Line meets the criteria for listing in the National Register of Historic Places and that it is unaware of any archeological resources or any other previously unknown historic properties within the proposed project area.

The McGehee-Lake Village Line was constructed as the Memphis, Helena & Louisiana line of the St. Louis, Iron Mountain & Southern Railroad (StLIMSR) and opened on December 1, 1903. In 1917, the Line was merged with the StLIMSR and reorganized as the Missouri Pacific Railroad Company (MP). MP later merged with the Union Pacific Railroad Company (UP) on January 8, 1980. UP then sold the Line to DSR in January 14, 1989.

On July 4, 1851, at St. Louis, MO, ground-breaking for the Pacific Railroad marked the beginning of what would later be known as the MP. The first section of track was completed in 1852. In 1865, it became the first railroad to serve Kansas City, MO, after construction was interrupted by the American Civil War. In 1872, the Pacific Railroad was reorganized as the Missouri Pacific Railway by new investors after a railroad debt crisis. Because of corporate ties extending back to the Pacific Railroad, Missouri Pacific at one time advertised itself as being The First Railroad West of the Mississippi.

From 1879, Missouri Pacific was under the control of highly successful but extremely controversial New York financier Jay Gould, until his death in 1892. Gould developed a system extending through Colorado, Nebraska, Arkansas, Texas, and Louisiana. His son, George Gould, inherited control upon his father's death. The younger Gould lost control of the company after it declared bankruptcy in 1915. In 1917, the line was merged with the StLIMSR and reorganized as MP. MP later acquired or gained a controlling interest in other lines in Tex., including the Gulf Coast Lines, International-Great Northern Railroad, and the Texas Pacific Railway.

MP declared bankruptcy again in 1933, during the Great Depression, and entered into trusteeship. The company was reorganized and the trusteeship ended in 1956.

By the 1980s the system would own 11,469 miles of rail line over 11 states bounded by Chicago, IL to the east, Pueblo, CO, in the west, north to Omaha, NE, south to the U.S.-Mexico

border in Laredo, Texas, and southeast along the Gulf seaports of Louisiana and Texas. MP operated a fleet of more than 1,500 diesel locomotives, almost all purchased within the previous 10 years. The company was a pioneer in the early days of computer-guided rail technology. It was a major hauler of grain, Trailer on Flat Car, coal, ore, autos and dry goods. At the time of their merger in 1982, MP owned more and newer locomotives and operated more track than partner UP.

DSR served the Historic Report as required by the Board's environmental rules (49 C.F.R. § 1105.8(a)) and served the report on the Arkansas Department of Heritage, State Historic Preservation Office (SHPO) pursuant to 49 C.F.R. § 1105.8(c). Based on available information, the SHPO in a letter dated November 23, 2010, states that 6 archeological sites and 3 historic sites are located near the subject area. However, the SHPO finds that archeological and historic sites would not be affected by the proposed abandonment and therefore has no objection. Furthermore, OEA notes that none of the above identified archaeological and historic sites, listed in or eligible for inclusion in the National Register of Historic Places (National Register), are located within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 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 through posting on the Board's website at <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.<sup>5</sup> The database indicated that the Quapaw Tribe of Indians, a federally-recognized tribe, may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment. Accordingly, OEA is sending a copy of this EA to the Quapaw Tribe of Indians for review and comment.

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<sup>5</sup> Native American Consultation Database, <http://home.nps.gov/nacd/> (last visited January 23, 2011).

## **CONDITIONS**

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

**DSR Transportation, Inc., shall consult with Ms. Lindsey Lewis, USFWS (501.513.4489) or the Arkansas Ecological Services Staff (501) 513.4487 regarding potential impacts from salvaging activities to the breeding activities of the federally listed endangered Interior Least Tern (*Sterna antillarum athalassos*) that may occur near the Line. DSR shall report the results of these consultations in writing to the Board's Office of Environmental Analysis prior to the onset of salvage operations.**

## **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is imposed, that 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 4-part showing for imposition of a public use condition (49 C.F.R. § 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 C.F.R. § 1152.29).

DSR states that the Line would be appropriate for alternative public use as a recreational trail.

**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 original and 2 copies to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Troy Brady, 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 384 (Sub-No. 3X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Troy Brady, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at [Troy.Brady@stb.dot.gov](mailto:Troy.Brady@stb.dot.gov).

Date made available to the public: February 4, 2011.

**Comment due date: March 7, 2011.**

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment