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SEA**

**SERVICE DATE – JUNE 17, 2005**

**SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423**

## **ENVIRONMENTAL ASSESSMENT**

**NO. AB-70 (SUB-NO. 4X)**

**Florida East Coast Railway, L.L.C. - Abandonment Exemption -  
In Miami-Dade County, FL**

### **BACKGROUND**

In this proceeding, Florida East Coast Railway, L.L.C. (FECR), a Class II rail carrier, has filed a petition under 49 U.S.C. 10502 seeking exemption from the requirements of 49 U.S.C. 10903 to abandon a portion of its South Little River Branch Line located in Miami-Dade County, Florida. The rail line is approximately 5.0 miles long, from milepost LR 13.0 near Oleander, Florida, to milepost LR 18.0 near Kendall, Florida. A map depicting the rail line in relationship to the area served is appended to the report. If the exemption 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**

FECR proposes to abandon approximately 5.0 miles of the South Little River Branch (the rail line), running from milepost LR 13.0 near Oleander, Florida, to milepost LR 18.0 near Kendall, Florida. FECR states that the section of the rail line from milepost LR 15.5 to milepost LR 18.0 has not handled any rail traffic for more than two years while a section of the rail line from milepost LR 13.0 to LR 15.5 has not handled any rail traffic since August 2004.

According to FECR, only two active shippers have utilized the section of the rail line proposed for abandonment during the past three years: Gulfside Supply, Inc., (Gulfside), and Best Truss Company, Inc., (Best Truss).

Gulfside is a roofing materials distributor whose facility is located near milepost LR 15.0. Gulfside received rail shipments of roofing materials from February 2003 until August 2004, when FECR was forced to embargo the rail line due to required emergency repair work on a bridge located at milepost LR 12.23. During this period, Gulfside shifted its inbound deliveries to truck. It continued to truck inbound deliveries after the embargo was lifted in February 2005. FECR states that Gulfside received five carloads of roofing materials in 2003 and 23 carloads in 2004. During this same time period, Gulfside has had no outbound rail traffic.

Best Truss manufactures and sells roof trusses and has used the rail line to ship lumber to its facility located at milepost LR 15.2. Best Truss' inbound rail traffic totaled 35 carloads during 2002, 33 carloads during 2003, and 32 carloads during 2004. During the embargo, Best

Truss relocated its rail traffic to a rail-truck transload facility via FECR's nearby 16<sup>th</sup> Street Public Unloading Facility. Best Truss has continued to route its traffic in this manner since the embargo was lifted in February 2005.

FECR states that it believes that there are no reasonable alternatives to the proposed abandonment. If the abandonment is approved, FECR states that it intends to remove all track materials, such as rail and ties, but to leave the underlying roadbed intact. FECR also states that does not intend to undertake any activities that would result in sedimentation or erosion.

## **ENVIRONMENTAL REVIEW**

The railroad has 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. The railroad has served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Board's environmental rules at 49 CFR 1105.7(b). We have investigated and reviewed the record in this proceeding.

Comments have been received from the following agencies stating that the proposed abandonment will have no adverse impacts: U.S. Department of Agriculture, Natural Resources Conservation Service; U.S. Army Corps of Engineers, Jacksonville District; and the Florida Department of Environmental Protection, Coastal Zone Resources; the Florida Department of State, Division of Historical Resources, and the Miami-Dade County, Department of Planning and Zoning.

## **Transportation**

SEA notes that there will be no rail-to-truck diversions as a result of the proposed abandonment as there has been no rail traffic on the section of the rail line from milepost LR 13.0 to milepost LR 15.5 since August 2004 and on the section from milepost LR 15.5 to milepost LR 18.0 for more than two years.

FECR believes the abandonment, if approved, will enhance public health and safety by eliminating the 16 public and private highway/rail at-grade crossings.

## **Energy Consumption**

SEA notes that there has been no rail traffic on the section of the rail line from milepost LR 15.5 to milepost LR 18.0 for more than two years. Similarly, there has been no rail traffic on the section of the rail line from milepost LR 13.0 to milepost LR 15.5 since August 2004. All rail traffic consisted entirely of building materials and lumber. Therefore, the proposed abandonment will not result in any adverse effect on the transportation of energy resources of recyclable commodities.

## **Land Use**

In a letter dated March 10, 2005, the U.S. Department of Agriculture, Natural Resources Conservation Service, has determined that the abandonment, as proposed, would not result in any adverse impacts to prime farmland.

In a letter dated March 2, 2005, the Florida State Clearing House, Department of Environmental Protection, stated that the proposed abandonment will not result in adverse effects on coastal zone management.

In a letter dated April 18, 2005, the Miami-Dade County, Department of Planning and Zoning, states that the proposed abandonment is not inconsistent with the County's Comprehensive Development Master Plan.

## **Air Quality**

The Board has established air quality and noise level threshold levels set forth at 49 CFR 1105.7(e)(5)(ii) and (e)(6). These thresholds are guidelines that are considered, along with other supporting information, to determine whether the air pollution and noise levels generated by rail traffic diverted to alternative modes warrant detailed analysis.

The applicable threshold levels for Miami-Dade County (which is designated as "Maintenance Area" for the 1-hour ozone standard by the U.S. Environmental Protection Agency) are an increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains per day on any segment of the rail line, or an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment. Because there has been on traffic on the section of the rail line from milepost LR 15.5 to milepost LR 18.0 for more than two year and no rail traffic on the section of the rail line from milepost LR 13.0 to milepost LR 15.5 since August 2004, SEA has concluded that the proposed abandonment will not result in any of these threshold levels being met or exceeded.

## **Solid and Hazardous Waste**

FEER has conducted a search of company records and states that it has found no evidence of any hazardous material spills within its right-of-way (ROW).

In a June 5, 2005 telephone conversation with SEA, Mr. Michael Redig of the Florida Department of Environmental Protection, Bureau of Solid and Hazardous Waste, Resource Conservation and Recovery Act Compliance and Enforcement Section, raised concerns that the railroad properly dispose of any mercury-containing batteries often used at highway/rail at-grade crossing signals during salvage and not use herbicides containing arsenic tri-oxide during salvage operations on the ROW.

Mr. Redig also suggested that SEA contact the Department's Bureau of Emergency Response to verify whether there is any documented hazardous materials spill along the

railroad's ROW. On June 5, 2005, SEA spoke with Messrs. Lee, Threet, and Graham of the Bureau of Emergency Response, who stated that they had no knowledge of any recent spills. Messrs. Lee, Threet, and Graham also stated that they would review their records and notify SEA if such records were discovered indicating that a hazardous materials spill had occurred within the railroad's ROW.

### **Biological Resources**

FECR states that it does not believe that the rail line proposed for abandonment will affect any wildlife sanctuaries or refuges, National or state parks or forests.

The U.S. Fish and Wildlife Service, Region 4, has not yet completed its review of the proposed abandonment.

The National Park Service, Southeast Regional Office, has not yet completed its review of the proposed abandonment.

On June 7, 2005, Mr. Steve Lau, Florida Fish & Wildlife Commission, Office of Policy and Stakeholder Coordination, stated that his office had no comment.

### **Water Resources**

FECR states that does not intend to undertake any salvage activities that would result in the production of sediment or erosion. All areas of disturbance will be kept to a minimum and limited to the ROW wherever possible.

In a letter dated March 18, 2005, the U.S. Army Corps of Engineers, Jacksonville District, states that based on information provided, the proposed abandonment would not impact navigable waters of the U.S., including wetlands, with deposition and fill or dredged material. Therefore, a permit would not be required.

The Florida Department of Environmental Protection, Bureau of Water Resource Management, has not completed its review.

On June 13, 2005, Mr. Fred Noble, Florida Department of Environmental Protection, NPDES Stormwater Program, stated that FECR would be required to obtain a NPDES Permit prior to initiating salvage activities if this activity will result in the disturbance of one-acre or more of land area.

### **Cultural and Historic Resources**

FECR states that there are no structures that are 50 years or older within the right-of-way. Therefore, FECR believes that abandonment of the rail line, if approved, and subsequent salvage will have no adverse effect on pre-historic, or historic archeological sites. If any such sites existed immediately below the surface those sites would have been disrupted during construction of the rail line. Salvage operations would take place on the surface of the land and involve

picking up salvageable material and thus would not disturb any archeological sites that might exist in the area.

In a letter dated March 25, 2005, the Florida Department of State, Division of Historical Resources, states that a review of their records finds that no historic properties are known to exist in the areas of potential effect.

In a letter dated May 5, 2005, the U.S. Department of Commerce, National Geodetic Survey, states that there are two (2) geodetic station markers that may be affected by the proposed abandonment.

On June 9<sup>th</sup>, SEA identified the following two federally recognized Native American tribes which may have ancestral connections to the area: 1) the Seminole Tribe of Florida and 2) the Miccosukee Tribe.

### **CONDITIONS**

In response to the concerns expressed by or due to the lack of a response received to date from the following: U.S. Department of Commerce, National Geodetic Survey; U.S. Department of Interior, Fish and Wildlife Division, Region 4; U.S. National Park Service, Southeast Regional Office; Florida Department of Environmental Protection, Bureau of Solid and Hazardous Waste, Resource Conservation and Recovery Act Compliance and Enforcement Section; and the Florida Department of Environmental Protection, Bureau of Water Resource Management, we recommend that the following conditions be imposed on any decision granting abandonment authority.

- 1. Florida East Coast Railway, L.L.C. (FECR) shall notify the U.S. Department of Commerce, National Geodetic Survey (NGS) not less than ninety days prior to commencement of such operations prior to conducting any salvage activities that will disturb or destroy either of the two (2) survey markers on the right-of-way.**
- 2. The U.S. Department of Interior, Fish and Wildlife Service, Region 4 (FWS), has not completed its review of the proposed abandonment. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting the Florida East Coast Railway, L.L.C. from salvaging or disposing of the right-of-way until consultation with the FWS has been completed.**
- 3. The National Park Service, Southeast Regional Office (NPS), has not completed its review of the proposed abandonment. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting the Florida East Coast Railway, L.L.C. from salvaging or disposing of the right-of-way until consultation with the NPS has been completed.**

4. **In response to concerns raised by the Florida Department of Environmental Protection, Bureau of Solid and Hazardous Waste, Resource Conservation and Recovery Act Compliance and Enforcement Section (FL-S&HW) Florida East Coast Railway, L.L.C., prior to engaging in any salvage activities on the rail line proposed for abandonment, shall first consult with the FL-S&HW.**
5. **The Florida Department of Environmental Protection, Bureau of Water Resource Management (FL-WRM), has not completed its review of the proposed abandonment. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting Florida East Coast Railway, L.L.C. from salvaging or disposing of the right-of-way until consultation with the FL-WRM has been completed.**

## **CONCLUSIONS**

Based on the information provided from all sources to date, we conclude that, as currently proposed, and subject to the recommended mitigation measures, 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.

Florida East Coast Railway, L.L.C. states that it does not believe that the right-of-way is suitable for purposes such as road or highways, other forms of mass transportation, conservation or energy production or transmission. However, a portion of the right-of-way may be suitable or use as a recreational facility.

## **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 the petition for 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 Services responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, 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 Troy Brady, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB-70 (Sub-No. 4X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Mr. Brady, the environmental contact for this case, by phone at (202) 565-1643, fax at (202) 565-9000, or e-mail at [bradyt@stb.dot.gov](mailto:bradyt@stb.dot.gov).

Date made available to the public: **June 17, 2005.**

**Comment due date: July 18, 2005. (30 Days)**

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

Vernon A. Williams  
Secretary

Attachment