

28320

SERVICE DATE - NOVEMBER 12, 1997

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

NO. AB-290 (SUB-NO. 190X)

**Norfolk Southern Railway Company
Abandonment Exemption
Between Berry and Belk
In Fayette County, Indiana**

BACKGROUND

In this proceeding, Norfolk Southern Railway (NSR)) has filed a petition under 49 U.S.C. 10502 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of its railroad line from Milepost 862.8 at Berry to Milepost 884.9 at Belk, a distance of 22.1 miles in Fayette County, AL. 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

In its application, NSR states that minimal use has been made of the line. For example, NSR states that in 1996, 52 carloads of local traffic consisting of pulpwood, lumber and timber mover over the line. Of that, A. Brown, the only shipper on the line, originated 13 carloads of pulpwood. NSR states that A. Brown can use truck transportation and that there is no potential for increased rail traffic.

The line crosses a number of waterways and passes through mostly forested areas with some commercial businesses and residential areas present.

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.

The U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the National Geodetic Survey, and the Alabama Historical Commission raised a number of environmental concerns regarding this proposed abandonment. Based on our further consultation with the NSR and other concerned parties, we will address those concerns here.

NSR states that it owns approximately 72% of the right-of-way underlying the line proposed for abandonment. If abandonment is granted, those portions of the line not in NSR ownership would revert to adjacent landowners. NSR policy upon abandonment, unless specifically required, does not include revegetation. When NSR removes the rail line at grade crossings, NSR repairs and repaves the road where the rails were removed.

NSR states that its salvage operations will be limited to the right-of-way wherever possible. No materials or debris will be dumped off the right-of-way or left behind in the right-of-way. NSR policy is to leave the ballast material in place.

None of the waterways crossed by the line proposed for abandonment are considered navigable by the Army Corps of Engineers except the Sipsey River. The Sipsey River is considered navigable immediately south of the location the line crosses it.

It is NSR's policy to remove bridges, bridge posts, piles and piers down to stream bottom level upon abandonment where possible. Removal of these structures reduces liability to NRS from persons who might harm themselves by falling off the structures or by running into them while in a boat. Because NSR plans to remove bridge structures, we will recommend a condition prohibiting the railroad from performing any in-stream salvage in the designated waterways in order to assist us in completing the Section 7 process pursuant to the Endangered Species Act. The U.S. Fish and Wildlife Service has informed us that there may be three endangered mussels in the Luxapallila Creek and the Sipsey River: ovate clubshell mussel, southern clubshell mussel and fine-lined pocketbook mussel.

The U.S. Fish and Wildlife Service also requested that a number of mitigation measures be incorporated into NSR's salvage

operations. We will recommend those measures as conditions.

NRS contacted the U.S. Army Corps of Engineers (COE) regarding the proposed abandonment. COE responded in writing (letter included in the NRS abandonment application) that it concluded that no significant adverse environmental impacts would be produced by the abandonment of the involved rail line.

The Board's environmental regulations at 49 CFR 1105.7(e)(5)(ii)(C) set thresholds for possible air quality impacts at an average increase in truck traffic of more than 10 percent of the average daily traffic (ADT) or 50 vehicles a day on a given road segment. According to NRS, the ADT for the area roadways onto which the current rail traffic would be diverted upon abandonment is in excess of 4,500 vehicles per day. Using the single active patron's yearly freight shipped recently (2,029.5 tons) and converting this tonnage to truck (136 truck trips per year) yields an increase to the ADT of 0.37 vehicles per day. This is less than 10 percent of the ADT and less than 50 vehicles per day.

Based on Federal reporting requirements for hazardous materials spills and in consultation with Federal and state government agencies regarding the location of any hazardous waste sites near the line proposed for abandonment, NSR has been able to reaffirm its statement that there have been no hazardous materials spills on the line and that there are no hazardous waste sites in the area.

The Alabama Historical Commission has informed us that portions of the entire line may be eligible for inclusion in the National Register of Historic Places as well as the bridge over the Sipsey River at Milepost 877.3. Because the Alabama Historical Commission has not completed its assessment of the historical significance of the railroad properties involved, we will recommend a Section 106 condition pursuant to the National Historic Preservation Act prohibiting the railroad from altering the historic integrity of the right-of-way and Sipsey River bridge until completion of the Section 106 process.

The National Geodetic Survey advised us in a letter, with a copy to NRS, that there are 24 geodetic station markers that may be affected by the proposed abandonment; a list of these markers was attached. NGS requests that NRS provide not less than 90 days notification in advance of any salvage activities that may disturb or destroy these markers. We will recommend this advance notification as a condition.

CONDITIONS

We recommend that the following environmental conditions be placed on any decision granting abandonment authority.

1. The U.S. Fish and Wildlife Service field office at Daphne, Alabama states that three endangered mussel species may be present in the Luxapallila Creek and the Sipse River. Therefore, we recommend a condition be placed on any decision granting abandonment authority prohibiting the railroad from performing any in-stream salvage activities in the Luxapallila Creek and the Sipse River in order to assist us in the completion of the Section 7 process of the Endangered Species Act, 16 U.S.C. 1531.

Pursuant to further requests from the U.S. Fish and Wildlife Service, we recommend that the following salvage mitigation measures be placed on any decision granting abandonment authority:

a. Best Management Practices will be implemented, as appropriate, to reduce potential erosion in the project area and to protect water quality in aquatic habitats.

b. Equipment staging and refueling areas will be limited to upland sites.

c. Stabilization efforts, such as disking and reseeding with native vegetation, will be conducted in disturbed areas immediately after activities.

d. Broad-cast herbicides or pesticides will be prohibited during right-of-way clearing within wetland areas.

e. Any construction activities during salvage operations will be restricted to existing roads or the right-of-way.

f. Removal of trees and riparian vegetation will be minimized.

g. To minimize siltation, in-stream salvage will be undertaken during low flow periods and using silt curtains and hay bales, as appropriate

h. Wherever possible, salvage operations will be conducted on the opposite side of the rail line from wetlands.

2. The National Geodetic Survey has identified 24 geodetic station markers that may be affected by the proposed abandonment. Therefore, the railroad shall notify NGS at least 90 days prior to engaging in salvage activities that may disturb or destroy these markers.

3 Prior to any salvage activities, NSR shall consult with the U.S. Environmental Protection Agency, Region 4, to determine whether any permits will be required pursuant to the National Pollutant Discharge Elimination System Permit Program.

4. The Alabama Historical Commission has not completed its assessment of the historical significance of the railroad properties involved. Accordingly, a condition is recommended requiring that NSR shall retain its interest in and take no steps to alter the historic integrity of the right-of-way and the

bridge over the Sipsey River at Milepost 877.3 until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONCLUSIONS

Based on the information provided from all sources to date, and subject to the recommended conditions, we conclude that, as currently proposed, 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 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, you should send an **original and two copies** to Vernon A. Williams, Office of the Secretary, Washington, DC 20423, to the attention of Dana White, who prepared this environmental assessment. **Please refer to Docket No. AB- 290 (Sub No. 190X) in all correspondence addressed to the Board.** If you have questions regarding this environmental assessment, you should contact Dana White at (202) 565-1552.

Date made available to the public: 11/7/97.

Comment due date: 12/5/97. (30 Days)

By the Board, Elaine K. Kaiser, Chief, Section of Environmental Analysis.

Vernon A. Williams
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