

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

NO. AB-290 (SUB-NO. 260X)

**Tennessee Railway Company - Abandonment Exemption -
In Scott County, TN**

BACKGROUND

In this proceeding, Tennessee Railway Company (TRC), a wholly owned subsidiary of Norfolk Southern Railway Company (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 and discontinuance of operations of rail line, located in Scott County, Tennessee. The rail line is approximately 27.01 miles long, from milepost TE 27.96 near Nick's Creek, TN, and milepost TE 0.95 near Oneida, TN. 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

TRC states that there has been only one active shipper, National Coal Company, along the rail line for several years. National Coal Company recently bought the only actively operating coal mine located along the rail line at approximately milepost TE 26.25 at Smokey Junction, TN. TRC states that there have been no shipments over the subject rail line since March 2004 and that rail service is not required to serve any active shippers. TRC also states that since March 2004, National Coal Company has made its coal shipments via truck to Turley, TN, on another NSR rail line for shipment via railroad. TRC states that the rail line and adjacent rail segment to Devonia, TN, comprise a dead-end branch line therefore, no overhead shipments have moved or are moving over the rail line.

The land use along the rail line is approximately 60 percent undeveloped, 15 percent residential, 10 percent agricultural, and 5 percent industrial. Where TRC owns the right-of-way (ROW), it will be allowed to naturally revegetate and where TRC does not own the ROW the owner and local zoning and development ordinances will determine future land use. With that said, TRC will consider entering into an interim trail use agreement to preserve the ROW for current recreational use and possible restoration of the rail line at some future date.

TRC does not have fee title to the entire ROW underlying the rail line proposed for abandonment; therefore, TRC will not have a contiguous corridor available for public use. This leads TRC to believe that the ROW, if the abandonment is approved, is not suitable for

highways, other forms of mass transit, energy production, or related transportation facilities, conservation or recreation corridors, or other public use.

TRC states that it believes that none of the 19 bridges on the proposed rail line to be abandoned meets the criteria for listing in the National Register of Historic Places. TRC states that the bridges are short in length and relatively modern and ordinary in design and construction. TRC 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 operation 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 April 1, 2002 - March 31, 2003, TRC handled 3,945 carloads while from April 1, 2003, to March 31, 2004, TRC moved 1,978 carloads. SEA notes that this rail line has not seen any rail traffic since March 2004.

If the abandonment is approved, TRC states that it may salvage and sell all track and materials as appropriate. The salvage process will include removal of rail and ties. However, because of the existing geometry of the roadbed, it will not be altered. TRC also states that it may also sell the right-of-way.

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. Department of Interior, Fish and Wildlife Service; U.S. Army Corps of Engineers, Nashville District; the Tennessee Historical Commission, Department of Environment and Conservation; and the U.S. Environmental Protection Agency, Region 4.

Transportation

On April 20, 2005, SEA received a fax from the Office of the County Mayor of Scott County, TN, which included 7 (seven) resolutions that have been passed in the past five (5) years. The resolutions raise several economic issues but two of them state in part that the closure of the rail line “causes hazardous situations on our narrow county roads where coal trucks are forced to haul the coal that was once transported by rail...”

However, 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 this rail line since March 2004.

TRC believes the abandonment, if approved, will enhance public health and safety by eliminating the 15 public and 12 private at-grade crossings.

Energy Consumption

SEA notes that there has been on traffic on the rail line proposed for abandonment since March 2004; therefore, there will be no impact to the transport of energy resources or recyclable commodities and that the development and transportation of energy resources will not be adversely affected by the proposed abandonment.

Land Use

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.

As stated earlier, TRC does not have fee title to the entire ROW underlying the rail line proposed for abandonment. Therefore, TRC believes that most alternative public uses are not feasible. However, TRC is exploring the possibility of trail use which will preserve the corridor for future rail use while providing a recreational public use corridor in the near term.

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 level for an attainment area when assessing air pollution is an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight 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.

SEA believes that the abandonment, as proposed, will not result in any adverse impacts to air quality because there has been rail traffic moved over the rail line since March 2004. However, SEA notes that Scott County is in attainment for all National Ambient Air Quality Standard pollutants.

Solid and Hazardous Waste

TRC has conducted a search of company records and states that it has found evidence of a single hazardous material spill within the ROW. This incident occurred on July 8, 1999 at milepost TE 3.8 and involved the discharge of approximately 40 gallons of diesel fuel. The report states that the contaminated soil was removed and disposed of properly.

The Tennessee Department of Environment and Conservation, Division of Solid and Hazardous Waste, has not completed its review.

Biological Resources

In a letter dated January 20, 2005, the U.S. Department of Interior, Fish and Wildlife Service, states that they have no indication that federally listed or proposed endangered or threatened species occur within the proposed impact area. Therefore, based on the best information available, the FWS concludes that the requirements of section 7 of the Endangered Species Act of 1973, as amended, has been fulfilled.

TRC states that the proposed abandonment does not pass through any wildlife sanctuaries, refuges, National or State parks, or forests and therefore should not adversely affect such lands.

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

The Tennessee Wildlife Resources Agency has not yet completed its review of the proposed abandonment.

Water Resources

TRC states that does not intend to appreciably remove or alter the contour of the roadbed underlying the rail line proposed for abandonment. All areas of disturbance will be kept to a minimum and limited to the ROW wherever possible.

TRC also states that the rail line crosses Poplar Tree Branch, Walt Yancey Creek, Crosses Creek, Little Laurel Creek, Mud Cut Creek, Buffalo Creek, Mill Branch Creek, Montgomery Fork, Shoal Creek, Old House Branch, and six unnamed waterways. However, TRC has no plans to undertake in-stream work, or dredge and/or fill any materials therefore, no water quality impacts are expected.

In a letter dated March 3, 2005, the U.S. Army Corps of Engineers, Nashville District, states that based on information provided, the proposed abandonment would not impact water of the U.S., including wetlands, with deposition and fill or dredged material. Therefore, a permit would not be required.

In a letter dated January 20, 2005, the FWS states that if bridges are removed that silt barriers be installed when working adjacent to streams to prevent runoff of sediment. The FWS also requests that streambanks be reshaped to the original contour and reseeded with native vegetation beneficial to wildlife immediately following completion of bridge removal.

On April 26, 2005, via telephone, Mr. John Hamilton, U.S. Environmental Protection Agency, NEPA Program Office, Region 4, stated that their agency has no comment.

The Tennessee Department of Environment and Conservation, Division of Water Pollution and Control, has not completed its review.

Cultural and Historic Resources

TRC 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.

The Tennessee Historical Commission, Department of Environment and Conservation, in a letter dated March 31, 2005, states that there are no National Register of Historic Places Listed or Eligible Properties that will be affected by this proposed abandonment.

In a letter dated December 16, 2004, the U.S. Department of Commerce, National Geodetic Survey, states that there are three (3) geodetic station markers that may be affected by the proposed abandonment.

On April 26, 2005, via telephone, Ms. Michelle Hamilton of The Eastern Band of Cherokee Indians, Tribal Historic Preservation Office (THPO), stated that they have no concern so long as the salvage activity does not result in any new earth disturbance. If however, TRC anticipates any new earth disturbance activities they shall first consult with the Eastern Band of the Cherokee Indians THPO in accordance with the regulations as outlined at 36 CFR 800.13(b) of the National Historic Preservation Act.

Ms. Hamilton also provided a list of additional Native American tribes to assist SEA in satisfying its section 106 responsibilities. The list of additional contacts includes the following: Cherokee Nation of Oklahoma; Kialegee Tribal Town; Chickasaw Nation of Oklahoma; Muscogee Nation of Oklahoma; Mississippi Band of Choctaw Indians; Seminole Nation of Oklahoma; Choctaw Nation of Oklahoma; Thlopthlocco Tribal Town (of the Creek Indian Nation of Oklahoma); Seminole Tribe of Florida; United Keetowah Band of Cherokee Indians; The Shawnee Tribe; Eastern Shawnee Tribe of Oklahoma; Alabama-Coushatta Tribes of Texas; Coushatta Tribe of Louisiana; Alabama-Quassarte Tribal Town, Oklahoma; Poarch Band of Creek Indians of Alabama; and the Absentee-Shawnee Tribe of Indians of Oklahoma.

SEA has also requested that TRC send the environmental and historic report for this proceeding to the above referenced Native American tribes per 36 CFR 800.3(f)(2) to seek their input regarding any National Register eligible properties of traditional religious and cultural significance that may be affected by the proposed abandonment. The above referenced Native American tribes have ancestral connections to the project area and may therefore have an interest in the project's potential impacts on any areas of tribal interest. The tribes will be added to the service list for this proceeding and will receive a copy of this EA for their comment.

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 5; U.S. National Park Service, Southeast Regional Office; Tennessee Department of Environment and Conservation, Division of Solid and Hazardous Waste; Tennessee Wildlife Resources Agency; and the Tennessee Department of Environment and Conservation, Division of Water Pollution and Control we recommend that the following conditions be imposed on any decision granting abandonment authority.

- 1. Tennessee Railway Company (TRC) shall notify the U.S. Department of Commerce, National Geodetic Survey (NGS) prior to any salvage activities that will disturb or destroy any of the three (3) survey markers on the right-of-way. Therefore, we recommend, that TRC consult with the NGS prior to undertaking any salvage operations. If salvage operations are expected to destroy or disturb any geodetic station markers TRC shall notify the NGS in not less than ninety days prior to commencement of such operations.**
- 2. The U.S. Fish and Wildlife Service (FWS), states that if any of the 19 bridges are to be removed that Best Management Practices be employed to prevent runoff of sediment. The FWS also requests that streambanks be reshaped to the original contour and reseeded with native vegetation immediately following completion of bridge removal. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting the Tennessee Railway Company from salvaging or disposing of the right-of-way until consultation with the FWS has been completed.**
- 3. The Eastern Band of Cherokee Indians, Tribal Historic Preservation Office (THPO), states that it has no concerns regarding the proposed abandonment so long as the salvage activity does not result in any new earth disturbance. If however, TRC anticipates any new earth disturbance activities it shall first consult with the THPO. Therefore, we recommend, that TRC consult the Eastern Band of Cherokee Indians THPO prior to undertaking any earth disturbing activities in accordance with the regulations as outlined at 36 CFR 800.13(b) of the National Historic Preservation Act.**
- 4. 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 Tennessee Railway Company from salvaging or disposing of the right-of-way until consultation with the NPS has been completed.**
- 5. The Tennessee Department of Environment and Conservation, Division of Solid and Hazardous Waste (TDEC-S&HW), has not completed its review of the proposed abandonment. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting Tennessee Railway Company from**

salvaging or disposing of the right-of-way until consultation with the TDEC-S&HW has been completed.

- 6. The Tennessee Wildlife Resources Agency (TN-WRA), has not completed its review of the proposed abandonment. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting Tennessee Railway Company from salvaging or disposing of the right-of-way until consultation with the TN-WRA has been completed.**
- 7. The Tennessee Department of Environment and Conservation, Division of Water Pollution and Control (TDEC-WPC), has not completed its review of the proposed abandonment. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting Tennessee Railway Company from salvaging or disposing of the right-of-way until consultation with the TDEC-WPC 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.

TRC does not have fee title to the entire ROW underlying the rail line proposed for abandonment. Therefore, TRC believes that most alternative public uses are not feasible.

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).

TRC is exploring the possibility of trail use which will preserve the corridor for future rail use while providing a recreational public use corridor in the near term.

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 Troy Brady, who prepared this environmental assessment. **Please refer to Docket No. AB - 290 (Sub No. 260X) in all correspondence addressed to the Board.** If you have questions regarding this environmental assessment, you should contact Troy Brady at (202) 565-1643.

Date made available to the public: **April 29, 2005.**

Comment due date: May 30, 2005. (30 Days)

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

Vernon A. Williams
Secretary

Attachment