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SEA

SERVICE DATE – DECEMBER 7, 2007

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-290 (Sub-No. 291X)
Norfolk Southern Railway Company –
Abandonment Exemption – in Grant County, IN

BACKGROUND

In this proceeding, the Norfolk Southern Railway Company (NSR) has filed a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 seeking to abandon 3.66 miles of rail line between milepost TS 153.35 and TS 157.01 in Marion, Grant County, IN (Line). In its initial environmental and historic reports and in the newspaper notice, NSR originally proposed to abandon 3.91 miles of rail line. However, upon further review, NSR determined that it still required use of the segment between mileposts TS 153.10 and 153.35. Therefore, NSR has notified all recipients of the environmental and historic reports in writing that the petition would seek an exemption to abandon a section of rail line shorter than what was originally identified.

The Line now proposed for abandonment traverses United States Postal Service Zip Code 46953 and the right-of-way is approximately 100 feet in width and the topography is generally urban in nature. A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the petition becomes effective, NSR would be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

NSR has submitted an environmental report that concludes the quality of the human environment would 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 has 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.

NSR states that since 2002, Central Railroad Company of Indianapolis (CERA) has operated over a 2.36 mile portion of this line segment between milepost TS 154.65 and milepost TS 157.01. According to NSR, CERA provided the only rail service on that rail segment until May 10, 2006, when CERA ceased operations. By a Decision served August 1, 2007, in STB

Docket No. AB-511 (Sub No. 3X), the Board granted CERA's Petition for Exemption to discontinue its rail service. This discontinuance became effective on August 31, 2007.

According to NSR, there were two shippers, Bell Fiber (Bell) and Essex Wire, Inc. (Essex), who had used rail service provided by CERA. Bell ceased using the Line more than two years ago. Essex continued to use the Line until CERA ceased rail operations in May 2006. NSR states that there are no other potential railroad customers located along this rail segment. In addition, NSR states that approximately one mile of the Line located north of both Bell and Essex (between mileposts TS 153.35 and TS 154.65) has been out of service for many years.

In its submittal, NSR states that the abandonment, if approved, would not impact regional and/or local transportation rail systems or patterns or the diversion of rail traffic to other modes. The abandonment, if approved, would also improve local roadway safety with the elimination of 14 public and private at-grade crossings. NSR also states that it believes that there are no satisfactory alternatives to abandonment of this Line.

SEA notes that if this abandonment is approved, salvage would likely entail removal of the rail, other track material, and ties from the right-of-way. Salvage operations are normally conducted entirely within the right-of-way by use of rail mounted equipment that removes the spikes and plates that hold the rails to the ties. After the rail, ties and other track material are removed, a vehicle equipped with magnets is generally used to travel over the right-of-way to remove any remaining spikes or plates inadvertently left behind. At that time, any ties or parts of ties left behind would be removed. The ballast and sub-ballast would remain undisturbed.

NSR states that it does not intend to perform any activities that would cause sedimentation or erosion of the soil and does not anticipate any dredging or use of fill in removal or track material. Furthermore, no debris would be discarded along the right-of-way nor placed or left in streams or wetlands, or along the banks of such waterways. Any work along the right-of-way would also be subject to appropriate measures to prevent or control spills from fuels, lubricants or any other pollutant materials.

NSR believes that the proposed abandonment is consistent with existing land use plans. However, NSR has not yet verified that it has fee title to some parcels comprising the right-of-way underlying the proposed abandonment. Therefore, NSR may not have a contiguous corridor available for public use. NSR has also not yet decided whether it will negotiate for interim trail use.

In an e-mail dated June 6, 2007, Mr. John Shelby, Chairman Cardinal Greenway/Grant County, commented that that right-of-way is ideally situated to connect the Mississinewa Riverwalk with the Cardinal Greenway and tie many of the City of Marion's commercial, residential and recreational centers together by a system of easily accessible trails and greenways. Furthermore, by a letter dated November 19, 2007, the City of Marion and the Greenways Foundation, Inc., request that the Board find that the right-of-way is suitable for

public use, specifically trail use and to impose a time period of 180 days from the effective date of abandonment authorization for negotiations with NSR.

In a letter dated November 26, 2007, Bergen Passaic Rail Corporation D/B/A BP Rail. (BPR) advised the Board and parties or record of its intent to file an Offer of Financial Assistance (OFA) under 49 CFR 1152.27 for the Line.

In a letter dated June 12, 2007, Ms. Lisa Bolton, Natural Resources Conservation Service (NRCS) states that the abandonment, as proposed, would not result in the conversion of prime farmland.

In a letter dated June 15, 2007, Mr. Patrick Carroll, Senior Realty Officer, U.S. Fish and Wildlife Service (FWS) states that FWS does not own any land or interests in land in the vicinity of the proposed abandonment.

In a letter dated June 20, 2007, Mr. Scott Pruitt, Field Supervisor, FWS Bloomington Field Office, states that his office has no objections to the proposed abandonment.

In a letter dated June 4, 2007, Mr. J. Matthew Buffington, Environmental Supervisor, Indiana Department of Natural Resources (DNR) states that a search of its database finds that no plant or animal species listed as state or federally threatened, endangered, or rare have been identified within the proposed project area. Furthermore, NSR states that the proposed abandonment does not pass through state parks or forests, national parks or forests, or wildlife sanctuaries.

In its filing, NSR states that the Line does not cross any waterways. Therefore, NSR would not engage in any in-stream work, or dredge and/or use any fill materials in connection with the proposed abandonment.

In an e-mail dated June 7, 2007, Mr. Doug Shelton, Chief, Army Corps of Engineers (Corps), Regulatory Branch, Louisville District, states that waters of the United States would not be impacted. Therefore, a Section 404 Permit would not be required. In addition, the Corps notes that the proposed abandonment would not adversely affect designated wetlands or 100 year flood plains.

In the same letter noted above (dated June 4, 2007, from J. Matthew Buffington of DNR), DNR states that NSR must use appropriate measures to control erosion and sediment until salvage activities are complete and all disturbed areas stabilized. Therefore, SEA will recommend that the Board impose the following condition on any decision granting abandonment authority: To ensure that the concerns of the DNR are adequately addressed, NSR shall consult with the DNR prior to commencement of any salvage activities regarding abandonment and salvaging procedures, including erosion control measures.

NSR states that it is not aware of any hazardous waste sites or sites on the Line where any hazardous materials spills have occurred.

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.

The U.S. Department of Commerce, National Geodetic Survey (NGS) has not completed its review of the proposed abandonment. Therefore, SEA has added NGS to the service list for this EA and specifically invites NGS's comments on this EA.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts. In addition to the agencies discussed above, SEA is providing a copy of this EA to the following agencies for review and comment: National Park Service, Midwest Regional Office and U.S. Environmental Protection Agency, Region 5.

HISTORIC REVIEW

In its Historic Report, NSR states that the Line was originally part of the Toledo, Cincinnati & St. Louis Railroad which was formed in February of 1881 through the consolidation of several narrow gauge rail lines. The railroad fell into financial difficulty and was later reorganized on June 12, 1886 as the Toledo, St. Louis & Kansas City Railroad.

On December 28, 1922, following bankruptcy and sale to its bondholders the railroad was consolidated and along with the Lake Erie & Western Railway, into the New York, Chicago & St. Louis Railway, which became known as the "Nickel Plate." Between 1933 and 1942, the Nickel Plate was under the control of the Chesapeake and Ohio, but resumed under its own management after that date. On October 16, 1964, the Nickel Plate was merged into the Norfolk and Western Railway (NWR). At the same time, the NWR gained control of the Wabash Railroad whose parallel line to St. Louis, MO, became the primary route for the combined system. In 1989, NWR leased the portion of the rail line between milepost TS 152.22 at Marion, IN, and TS 206.44 at Frankfort, IN, to CERA.

NSR states that there are no bridges or other structures located on the Line and that it knows of no historic sites or structures or archeological resources on the Line or within the proposed project area. NSR served the historic report on the Indiana Department of Natural Resources, State Historic Preservation Officer (SHPO), pursuant to 49 CFR 1105.8(c).¹ In a letter dated October 29, the SHPO states that it has determined that no archaeological resources

¹ Guidance regarding the Board's historic preservation review process is available on the Board's web site at <http://www.stb.dot.gov/stb/environment/preservation.html>.

would be adversely affected. However, the SHPO also states that according to the 1993 Grant County Interim Report, the following three structures may be within the probable area of potential effects and may meet the criteria for eligibility: 1) Toledo, St. Louis & Western Depot; 2) House located at 938 S. McClure Street; and 3) House, 2826 S. Washington Street.

As a result of the above inquiry, SEA sought clarification regarding ownership of the above referenced properties. On November 27, 2007, via telephone, SEA spoke with Mr. James Paschall, attorney representing NSR, who confirmed that NSR does not hold any interest in the above referenced properties. Moreover, each of the properties are located outside of the Line's right-of-way, which SEA generally defines as the Area of Potential Effect for rail line abandonments.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 CFR 800.4(d)(1), and following consultation with the SHPO, NSR, 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 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 through posting on the Board's website at <http://www.stb.dot.gov>.

Pursuant to 36 CFR 800.2, SEA conducted a search of the Native American Consultation Database at <http://home.nps.gov/nacd> to identify Federally recognized tribes, which may have ancestral connections to the project area. The database indicated that the Miami Tribe of Oklahoma may have an interest in the proposed abandonment and discontinuance. Accordingly, SEA is sending a copy of this EA to the Tribe for review and comment.

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

CONDITIONS

We recommend that one condition be imposed on any decision granting abandonment authority.

1. Norfolk Southern Railway Company shall consult with the Indiana Department of Natural Resources prior to commencement of any salvage activities regarding abandonment and salvaging procedures, including erosion control measures.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed that abandonment of the line would 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.

NSR has not yet verified that it has fee title to some parcels comprising the right-of-way underlying the proposed abandonment. Therefore, NSR may not have a contiguous corridor available for public use.

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).

NSR has not yet decided whether it will negotiate for interim trail use.

As noted above, by letter dated November 19, 2007, the City of Marion and the Greenways Foundation, Inc., request that the Board find that the right-of-way is suitable for public use, specifically trail use and to impose a time period of 180 days from the effective date of abandonment authorization for negotiations with NSR.

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 245-0230, 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, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-290 (Sub-No. 291X) 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.

Date made available to the public: December 7, 2007.

Comment due date: January 7, 2008.

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

Vernon A. Williams
Secretary

Attachment