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OEA

SERVICE DATE – AUGUST 12, 2016

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 290 (Sub-No. 386X)

**Norfolk Southern Railway Company – Abandonment Exemption –
In Charleston, S.C.**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) filed a notice under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of 1.97 miles of rail line located between milepost SC 0.33 and milepost SC 2.3 in Charleston, South Carolina (the Line). The proposed abandonment is located in the city of Charleston and the Line traverses United States Zip Codes 29403 and 29405.

The project area is generally level and the Line's right-of-way ranges from 50 to 100 feet in width. NSR reports that the Line does not contain any federally granted rights-of-way. NSR intends to sell the underlying right-of-way to the Friends of the Lowcountry Lowline for development of an urban park. There is one structure on the Line – a 66.34 foot long overhead concrete highway bridge that crosses Interstate 26. The bridge is located at milepost SC 1.75 and was constructed in 1966. A map with photographs depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA).

ENVIRONMENTAL REVIEW

NSR 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 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)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

NSR states that no local traffic has moved over the line for at least two years and no

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 290 (Sub-No. 386X).

overhead traffic would be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or cause the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or if necessary, via construction of new access points to the right-of-way. According to NSR, if abandonment authority is granted, NSR would salvage the rail, tie, and track material, but would retain the underlying roadbed, ballast, and any structures, including culverts, so as not to alter the underlying soil or impede existing drainage flows.

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.

The City of Charleston commented that the proposed abandonment is consistent with its 1998 Master Road Plan, 1999 Downtown Plan, and 2011 Century V Plan, which call for using the existing rail corridor for passenger transit and/or recreational purposes.

The United States Department of Agriculture's Natural Resources Conservation Service (NRCS) commented that the proposed abandonment would not significantly impact Prime or Statewide Important Farmlands. OEA has therefore determined that no further consultation with NRCS will be necessary in this proceeding.

The South Carolina Department of Natural Resources (SCDNR) reviewed the proposed abandonment for potential impacts to fisheries, wildlife habitat, water quality, recreation, and other factors relating to the conservation of natural resources. No natural resources of specific concern were found and SCDNR has concluded that the proposed abandonment would not substantially affect the quality of the natural environment. OEA has therefore determined that no further consultation with SCDNR is necessary in this proceeding.

The U.S. Fish and Wildlife Service (USFWS) commented that the proposed abandonment, including salvage operations, would not adversely affect any endangered or threatened species, nor would it affect any federally designated critical habitat. Accordingly, USFWS has no objection to the proposed abandonment, providing that there are no circumstances that would otherwise change the proposal or species affected. OEA has included the USFWS in the service list for this proceeding so that the agency may receive a copy of the EA for review.

The U.S. Army Corps of Engineers (Corps) commented that given NSR's salvage

procedure of no ground disturbance, the proposed action here is not a regulated activity under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899. The Corps has therefore concluded that no permit is required, but notes that any changes in circumstances may warrant a new review. The Corps has forwarded a copy of its review letter to the South Carolina Department of Health and Environmental Control, Bureau of Water Pollution Control, Office of Ocean and Coastal Resource Management (DHEC-BWPC-OCCRM) for state review. OEA has included these agencies in the service list for this proceeding so they may receive a copy of the EA for review.

The Line appears to be within a designated Coastal Zone Management Area, and accordingly, may be subject to the consistency certification requirements of the federal Coastal Zone Management Act of 1986 (16 U.S.C. § 1451 *et seq.*). Because this program is administered by the South Carolina DHEC-BWPC-OCCRM, OEA is recommending a condition that would require NSR to consult with DHEC-BWPC-OCCRM prior to initiating the salvage process to determine if abandonment and salvage of the rail line would be considered an activity that would affect land, water use, or any natural resource of the South Carolina Coastal Zone Management Program, and thus require consistency determination.

The National Geodetic Survey (NGS) commented that there are two (2) geodetic station markers that may be affected by the proposed abandonment. Accordingly, OEA has included a condition in this EA that would require NSR to consult with NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

OEA has not yet received responses from several federal, state and local agencies regarding potential environmental impacts from the proposed abandonment. OEA is therefore sending a copy of this EA to the following agencies for review and comment: the National Park Service; the U.S. Environmental Protection Agency; the South Carolina Department of Health and Environmental Control; and Charleston Planning, Preservation, and Sustainability.

HISTORIC REVIEW

NSR served the Historic Report on the South Carolina Department of Archives and History (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c) as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)]. The SHPO submitted comments indicating that the rail line abandonment has the potential to adversely affect the "William Aiken House and Associated Railroad Structures," a property listed in the National Register of Historic Places (National Register) and a designated National Historic Landmark. The SHPO also commented that the submitted information did not describe the undertaking or make an assessment of effect as it pertains to the historic property, nor did it document the APEs existing conditions, especially within and adjacent to the historic property's boundary. In order to determine more conclusively if an adverse effect to the historic property would occur, the SHPO has requested a detailed description of the undertaking; a clear delineation of the area of potential effects (APE); and a discussion of existing conditions within the surrounding area.

Accordingly, we are recommending a condition requiring NSR to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings,

structures and objects within the project right-of-way or APE that are eligible for listing or listed in the National Register until completion of the Section 106 process. We are also including the Department of Interior (DOI) and the Advisory Council on Historic Preservation (ACHP) in the service list for this proceeding so that they may receive a copy of the EA and that OEA include them in the consultation process to determine if the proposed abandonment may have an adverse effect on the Landmark site. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of two Native American databases to identify federally recognized tribes that may have ancestral connections to the project area.² The databases indicated that there are three federally recognized tribes with ancestral connections in the area of the proposed abandonment. The tribes are: the Catawba Indian Nation; the Muscogee Creek Nation; and the Eastern Shawnee Tribe of Oklahoma. We have included these tribes in the service list for this proceeding so that they may receive a copy of this EA.

CONDITIONS

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

1. Prior to beginning any salvage activities, Norfolk Southern Railway Company (NSR) shall consult with the South Carolina Department of Health and Environmental Control, Bureau of Water Pollution Control, Office of Ocean and Coastal Resource Management to determine whether state coastal management consistency certification is required, pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*). NSR may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to the Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) and the Board has removed this condition.
2. NSR shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.
3. NSR shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of

² Native American Consultation Database <http://grantsdev.cr.nps.gov/Nagpra/NACD/> (last visited July 26, 2016) and the U.S. Housing and Urban Development's Tribal Directory Assessment Tool at <http://egis.hud.gov/tadat/Tribal.aspx> (last visited July 26, 2016).

the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. NSR shall report back to OEA regarding any consultations with the South Carolina Department of Archives and History (State Historic Preservation Office or SHPO) and the public. NSR may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed and if the recommended mitigation is imposed, 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 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).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC 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 an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to

the attention of Diana Wood, 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. 386X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at woodd@stb.dot.gov.

Date made available to the public: August 12, 2016.

Comment due date: August 29, 2016.

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

Attachment