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SERVICE DATE – MAY 3, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 323X)

THE ALABAMA GREAT SOUTHERN RAILROAD COMPANY—ABANDONMENT  
EXEMPTION—IN SAINT BERNARD PARISH, LA.

Decided: April 29, 2011

The Alabama Great Southern Railroad Company (AGS), filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments, to abandon a 3.50-mile rail line between mileposts 1.00-PT and 4.50-PT, near Toca, in Saint Bernard Parish, La. Notice of the exemption was served and published in the Federal Register on April 7, 2011 (76 Fed. Reg. 19523-24). The exemption is scheduled to become effective on May 7, 2011.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on April 8, 2011. In the EA, OEA stated that, according to the Louisiana Department of Natural Resources' Office of Coastal Management, the line is located within the Louisiana Coastal Zone and the proposed abandonment would require authorization from the Office of Coastal Management. Therefore, pursuant to the Coastal Zone Management Act, 16 U.S.C. § 1451 et seq., and the Board's environmental regulations at 49 C.F.R. § 1105.9, OEA recommended that a condition be imposed prohibiting AGS from conducting any salvage activities until AGS obtains state coastal management consistency certification and notifies OEA in writing.

OEA stated that the Natural Resources Conservation Service (NRCS) submitted comments stating that the proposed abandonment would not impact prime farmland or any farmland protection efforts in the area. However, NRCS requested that AGS employ appropriate erosion control measures during salvage activities in order to avoid adverse effects to the surrounding environment. Accordingly, OEA recommended that a condition be imposed requiring AGS to follow best management practices during salvage activities to prevent erosion.

Further, OEA stated that the bridge on the line would be removed as part of the proposed abandonment, but that AGS has no plans to undertake in-stream work or to dredge or use any fill materials. OEA stated that the United States Army Corps of Engineers, New Orleans District (Corps), has reviewed the proposed project and determined that a permit under Section 404 of the Clean Water Act, 33 U.S.C. § 1344, would not be required. However, the Corps has advised AGS that it must obtain a permit from a local assuring agency, typically a Levee Board or Parish Council, for any work within 1,500 feet of a federal flood control structure, such as a levee. OEA stated that, after consulting with the Louisiana Department of Transportation and

Development (LDOTD) and the Lake Borgne Basin Levee District, it was determined that the proposed abandonment is more than 1,500 feet from the Mississippi River levee, and it would not impact a federal levee system or flood control structure maintained by the Lake Borgne Basin Levee District. However, at the request of LDOTD and the Lake Borgne Basin Levee District, OEA recommended that, prior to commencement of any salvage activities: (1) AGS contact Saint Bernard Parish regarding potential impacts to federal flood control structures and, if applicable, comply with any reasonable requirements, and (2) prior to the onset of salvage operations, AGS report the results of these consultations in writing to OEA.

Comments to the EA were due by April 25, 2011, but no comments were received. However, OEA states in its final EA that, upon further independent review, it believes that condition 1 recommended in the EA (regarding consultation with the Louisiana Department of Natural Resources' Office of Coastal Management) be modified to make clear that AGS cannot initiate salvage activities or consummate the abandonment prior to its compliance with the stipulations of the condition. Accordingly, OEA recommends that condition 1 be modified as follows: pursuant to the Coastal Zone Management Act, 16 U.S.C. § 1451 et seq., and the Board's environmental regulations at 49 C.F.R. § 1105.9, AGS: (1) shall consult with the Louisiana Department of Natural Resources' Office of Coastal Management and obtain state coastal management consistency certification, and (2) may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until AGS reports the results of these consultations in writing to OEA and the Board has removed this condition.

OEA recommends that the conditions previously recommended in the EA (including modification of condition 1), be imposed upon any decision granting abandonment authority. Accordingly, the conditions recommended by OEA will be imposed. Based on OEA's recommendation, the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on April 7, 2011, exempting the abandonment of the line described above is subject to the conditions that: (1)(a) pursuant to the Coastal Zone Management Act, 16 U.S.C. § 1451 et seq., and the Board's environmental regulations at 49 C.F.R. § 1105.9, AGS shall consult with the Louisiana Department of Natural Resources' Office of Coastal Management and obtain state coastal management consistency certification, and (b) AGS 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 OEA and the Board has removed this condition; (2) based on comments from NRCS, AGS shall follow best management practices during salvage activities to prevent erosion; and (3)(a) prior to commencement of any salvage

activities, AGS shall consult with Saint Bernard Parish regarding potential impacts to federal flood control structures and, if applicable, comply with any reasonable requirements, and (b) AGS shall report the results of these consultations in writing to OEA prior to the onset of salvage operations.

3. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.