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SERVICE DATE – JULY 18, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-167 (Sub-No. 1188X)

CONSOLIDATED RAIL CORPORATION—ABANDONMENT EXEMPTION—IN
WAYNE COUNTY, MI

Decided: July 17, 2006

Consolidated Rail Corporation (Conrail) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon approximately 4.3 miles of two contiguous lines of railroad as follows: (1) the Detroit Terminal West Industrial Track, between approximately milepost 7.70± near Joseph Campau Street and approximately milepost 10.30± near Woodrow Wilson Street; and (2) the Highland Park Industrial Track, between approximately milepost 7.40± near Woodrow Wilson Street and approximately milepost 5.70± near Cloverdale Street, in Detroit and Highland Park, Wayne County, MI. Notice of the exemption was served and published in the Federal Register on June 20, 2006 (71 FR 35480-81). The exemption is scheduled to become effective on July 20, 2006.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on June 23, 2006. In the EA, SEA indicated that the National Geodetic Survey (NGS) identified three geodetic station markers that may be affected by the proposed abandonment. Therefore, SEA recommends a condition requiring Conrail to notify NGS at least 90 days prior to beginning salvage activities in order to plan for the markers' possible relocation.

SEA noted that the proposed abandonment would not include in-stream salvage of any bridges or dredging or discharge of fill materials into navigable waters. Therefore, a U.S. Army Corps of Engineers (Corps) permit under section 404 of the Clean Water Act (33 U.S.C. 1344) would not be required. SEA stated however, that the Corps' Detroit District indicated that some of its responsibilities were transferred to the Michigan Department of Environmental Quality Land and Water Management Division (MDEQ) and that the site of the proposed abandonment is no longer within the Corps' jurisdiction. SEA stated that the Corps recommends that Conrail contact Ms. Peg Bostwick at the Lake and Stream Protection Unit, Geological and Land Management Division of MDEQ, for a determination of state permit requirements. Therefore, SEA recommends a condition that, based on comments of the Corps and the U.S. Environmental Protection Agency, Region 5 (USEPA), Conrail contact MDEQ prior to commencement of any

salvage activities regarding applicable stormwater management requirements and any other state permit requirements, and comply with the reasonable requirements.

SEA stated that USEPA also recommended that Conrail consult with MDEQ in order to determine whether a section 402 permit covering stormwater runoff from construction activities is necessary. In addition, USEPA requested that rail, crossties, and any ancillary structures and materials be recycled or appropriately disposed. Therefore, SEA recommends a condition that, based on recommendations of USEPA, Conrail conduct salvage activities in the following manner: recycle or appropriately dispose of rails, crossties, and any ancillary structures and materials.

SEA further stated that Conrail indicated that it is not aware of any hazardous waste sites or sites where there have been hazardous material spills on the right-of-way. However, USEPA stated that there are many abandoned industrial sites that have identified hazardous waste issues along the right-of-way and recommends that the Board discuss potential redevelopments or future uses of the right-of-way. SEA stated that it conducted a search of USEPA's Toxics Release Inventory database which did contain information regarding toxic chemical releases and/or other waste management activities in the area of the proposed abandonment. Therefore, SEA recommends the following conditions: (1) prior to commencement of any salvage activities, Conrail shall consult with USEPA and MDEQ in order to ensure that any concerns regarding potential contamination of the right-of-way are addressed; and (2) Conrail shall report the results of these consultations in writing to SEA prior to the onset of salvage operations.

Finally, SEA stated that the Michigan Historical Center (SHPO) has requested to be contacted immediately if any artifacts or bones are discovered during salvage activities. Therefore, SEA recommends a condition that, in the event that any archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, Conrail immediately cease all work and notify SEA, interested Federally recognized tribes, and the SHPO. SEA shall then consult with the SHPO, interested Federally recognized tribes, and Conrail to determine whether any mitigation measures are necessary.

Comments to the EA were due by July 10, 2006. SEA noted that comments from the Southeast Michigan Council of Governments (SEMCOG) and the City of Detroit Planning and Development Department (DP&D) were included in the EA. SEMCOG stated that the proposed abandonment should not have a deleterious effect on the surrounding community. By letter dated June 8, 2006, SEMCOG submitted additional comments and reiterated that there are no potential problems associated with the proposed abandonment. Also, by letter dated June 1, 2006, DP&D restated its determination that the proposed abandonment aligns with the goals and policies of the Planning and Development Department's Revised City of Detroit Master Plan of Policies (2004).

Therefore, SEA states that no new environmental conditions are recommended and requests that the conditions recommended in the EA be imposed.

As conditioned, this decision 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 June 20, 2006, exempting the abandonment of the lines described above is subject to the following conditions: (1) Conrail shall notify NGS at least 90 days prior to beginning salvage activities in order to plan for the station markers' possible relocation; (2) based on comments of the Corps and USEPA, Conrail shall contact MDEQ prior to commencement of any salvage activities regarding applicable stormwater management requirements and any other state permit requirements, and comply with the reasonable requirements; (3) based on recommendations of USEPA, Conrail shall conduct salvage activities in the following manner: recycle or appropriately dispose of rails, crossties, and any ancillary structures and materials; (4)(a) prior to commencement of any salvage activities, Conrail shall consult with USEPA and MDEQ in order to ensure that any concerns regarding potential contamination of the right-of-way are addressed, and (b) Conrail shall report the results of these consultations in writing to SEA prior to the onset of salvage operations; and (5) in the event that any archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, Conrail shall immediately cease all work and notify SEA, interested Federally recognized tribes, and the SHPO. SEA shall then consult with the SHPO, interested Federally recognized tribes, and Conrail to determine whether any mitigation measures are necessary.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary